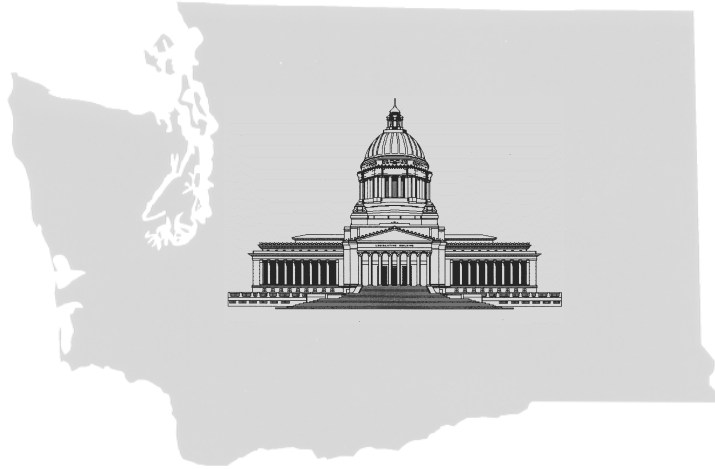


State of Washington
Joint Legislative Audit and Review Committee (JLARC)



**Public Disclosure Commission
Performance Audit**

Report 00-7

December 13, 2000

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in alternative formats for persons with disabilities.*

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**PUBLIC DISCLOSURE COMMISSION
PERFORMANCE AUDIT**

REPORT 00-7

REPORT DIGEST

DECEMBER 13, 2000



STATE OF WASHINGTON

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Public Disclosure Commission Performance Audit

Created by the public with the passage of Initiative 276 in 1972, the Public Disclosure Commission (PDC) is responsible for collecting and providing public access to campaign finance reports, lobbyist reports, and information on the financial affairs of public officials. The agency is also responsible for enforcing these disclosure laws.

For the 1999-01 Biennium, the Legislature provided the PDC with more than \$1 million earmarked for electronic filing of and enhanced public access to disclosure reports. The Legislature passed bills in the 1999 and 2000 Legislative Sessions requiring the PDC to meet a number of obligations such as offering electronic filing for campaign and lobbyist reports and providing more timely access to filed information. The 1999 legislation also directed the Joint Legislative Audit and Review Committee (JLARC) to conduct a performance audit of the duties and staffing of the PDC.

Information Disclosure

The PDC spends more than half of its budget on its disclosure duty. With more than 35,000 filings per year, campaign reports dominate the PDC's disclosure workload; in fact, the PDC collects more campaign finance reports than any state other than California. Since the mid-1990s, the PDC has been moving toward electronic filing and web site access to campaign and lobbyist reports. The agency's first ventures into this arena involved well-intentioned but ultimately inadequate vendor contracts. The PDC has now invested in its own Information Technology staff and is making better progress, as demonstrated by the agency's development of a query system for campaign contribution and expenditure data summaries. However, inefficiencies remain in the disclosure system, and the agency still faces several technology challenges. These challenges include sustaining and expanding the agency's technical capacity to fulfill its remaining legislative mandates, namely, offering an electronic filing option for lobbyists and their employers by January 2002, and managing mandatory electronic filing of campaign reports beginning January 2002. Recommendation 1 (next page) specifies several changes for improving the disclosure operation.

Enforcement

About 27 percent of PDC expenditures are devoted to its enforcement duty. The total enforcement caseload varies considerably from year to year. Much of this variation occurs in the failure-to-file cases, which are cases processed in batches to encourage the filing of annual financial affairs reports, campaign registration and candidate financial affairs reports, and annual reports from lobbyist employers. Some 88 percent of the failure-to-

file cases are directed against local government candidates and officials. Cases involving provisions of I-276 dominate the remaining, more substantive, enforcement caseload. The two most prevalent topics for complaints are problems with the reporting of campaign contributions and expenditures, and use of public offices or facilities in campaigns. Local government candidates, officials, and employees are the subjects of 42 percent of these more substantive enforcement cases. The filing of a certain type of citizen complaint via what is called a “45-day letter” has the potential to disrupt the PDC’s disclosure and enforcement operations. Recommendations 2 and 3 identify improvements for the operation of the enforcement function.

Staffing Issues and Other Duties

The PDC relies on its Political Finance Specialists to carry out its disclosure and enforcement duties. The Specialists assign first priority to the disclosure duty, helping filers and others comply with the disclosure laws. A Director of Compliance helps direct the enforcement program. Recommendation 4 addresses specific staffing issues regarding these positions.

Like all state agencies, the PDC has a duty to report on its performance and to comply with statutory requirements. In 1999, the Legislature directed the PDC to adopt certain performance measures, and the agency has complied. An additional performance measure can help track the transition from paper to electronic filing of reports. The agency also has two statutory reporting requirements, one from I-276 and one from I-134. The agency has not been complying with these requirements. Recommendation 5 offers improvements for these other PDC duties.

Recommendations

1. To improve the operation of its disclosure function, the Public Disclosure Commission

should: (1-1) develop a more formal process to ensure that its answers to questions are accurate and consistent; (1-2) convene an on-going stakeholder group to provide input into and feedback on development of the electronic records system; and (1-3) make use of other agencies’ technology experience and expertise.

2. To improve the operation of its enforcement function, the Public Disclosure Commission should: (2-1) further automate its failure-to-file process, and apply its current approach consistently for the failure-to-file enforcement cases; (2-2) include an automatic check for errors and omissions in its electronic filing alternatives; and (2-3) monitor the impact of receipt of 45-day letters on postponing other investigations and delaying answers to disclosure questions.

3. To improve the operation of the Public Disclosure Commission’s enforcement function, the Legislature should make minor statutory changes regarding 45-day letters (3-1) to deliver the letters to the PDC directly and (3-2) to apply the 45-day time period to the Commission’s investigation of the complaint.

4. With regard to specific staffing issues, the Public Disclosure Commission should: (4-1) request that the Department of Personnel review the minimum qualifications and the compensation level for the PDC’s Political Finance Specialist positions; and (4-2) modify the role of the Director of Compliance to include responsibility as an enforcement caseload manager.

5. To improve the operation of its other duties, the Public Disclosure Commission should: (5-1) incorporate into its performance measures a report on the number of filings and pages that are data-entered by hand and the accuracy of that data entry; and (5-2) comply with its statutory reporting requirements.

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INTRODUCTION

BACKGROUND

In the early 1970s, a number of Washington organizations known as the Coalition for Open Government pursued what was then a pioneering concept: information about campaign contributions and expenditures, lobbyist expenditures, and the financial affairs of public officials should be available to the public. Their efforts came to fruition in the form of Initiative 276, which voters passed with a 72 percent “Yes” vote in November 1972. What the Coalition members probably could not foresee at that time was an environment some 30 years later where a personal computer would sit atop almost every desk, and at the click of a button, a summary of a candidate’s campaign contributions would be displayed on the screen.

The initiative that launched this new level of information disclosure also created an independent state agency called the Public Disclosure Commission (PDC) to collect and disseminate the information. The Commission is comprised of five members who are appointed by the Governor with the consent of the Senate. Members serve single five-year terms, during which they are restricted from participating in campaign and lobbying activities.

Other public votes and legislative measures have added to the Commission’s original responsibilities, while changes in technology have changed the way the Commission carries out these responsibilities. Voters’ passage of Referendum 36 in 1976 added a number of offices to the list of officials who must file annual financial disclosure forms. The statutory change mentioned most frequently in terms of impact to the PDC workload is Initiative 134, adopted by voters in November 1992. I-134 added a number of new provisions to the disclosure laws,

including a limit on what some contributors may donate to campaigns. The disclosure laws are codified in Chapter 42.17 RCW.

The 1999 Legislature directed the Joint Legislative Audit and Review Committee (JLARC) to conduct a performance audit of the duties and staffing of the Public Disclosure Commission. This report fulfills that mandate. Following the Legislature’s direction, this report is organized primarily according to duties of the PDC. However, prior to looking at the agency’s duties in more detail, this introductory section includes budget and staffing information for the agency as a whole.

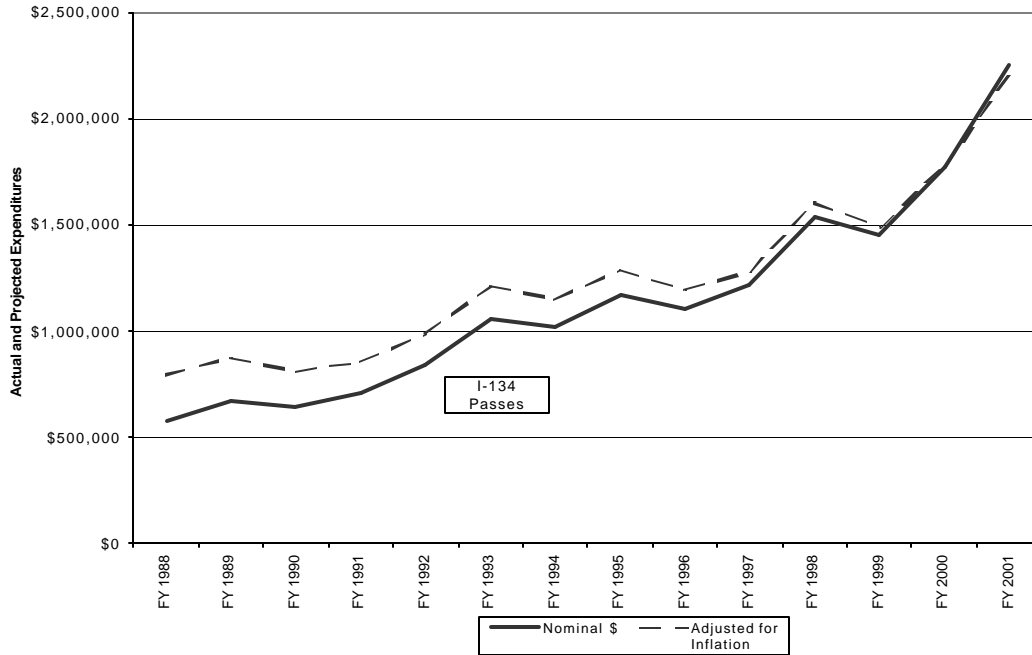
PDC BUDGET AND STAFFING

Figure 1 traces the PDC’s actual and projected budget expenditures from FY 1988 through FY 2001 in both nominal and inflation-adjusted dollars (adjusted using a calendar year chain-weight implicit price deflator, Year 2000=1). The Legislature has generally increased the agency’s funding over the time period, in nominal dollars from \$576,000 in FY 1988 to \$2.25 million in FY 2001. Steeper increases, particularly in the 1999-01 Biennium, represent the Legislature’s and agency’s increased investments in new information disclosure technology.

Figure 2 traces the increase in allotted FTEs over the same period, from 12.4 in FY 1988 to 25.6 in FY 2001. The increase in the 1999-01 Biennium is also technology-related as the PDC moved to establish its own internal information technology section.

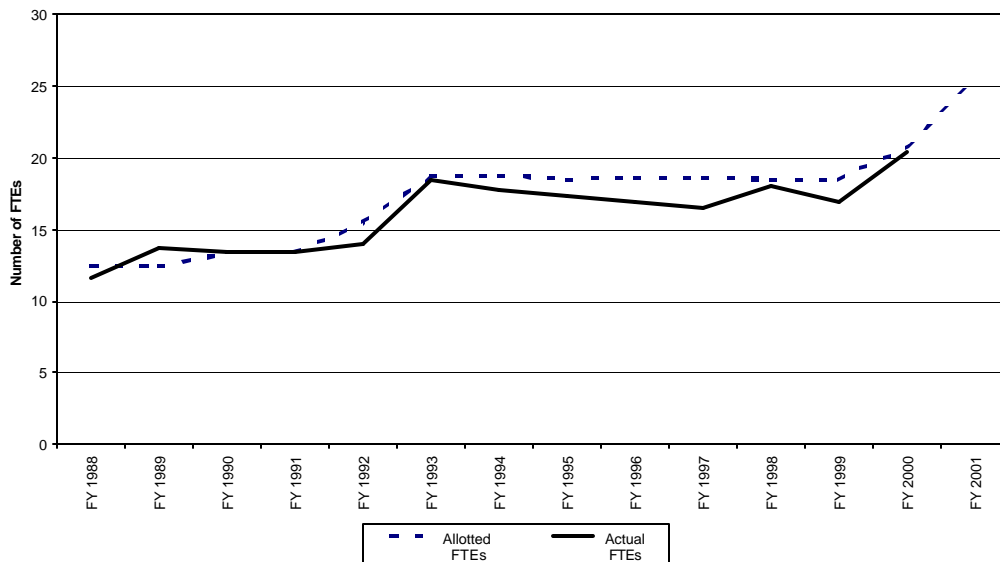
Figure 2 also illustrates that the PDC has had difficulty at times in matching its actual staffing level to the allotted level. For example, the agency underwent a lengthy process in 1999-2000 to hire a new Executive Director. During the course of the performance audit, the Commission

Figure 1
Public Disclosure Commission Budget Expenditures, FY 1988-2001



Source: Legislative Evaluation and Accountability Program Committee for FY 1988-1999; PDC for FY 2000-2001.

Figure 2
Public Disclosure Commission Allotted and Actual FTEs, FY 1988-2001



Source: Legislative Evaluation and Accountability Program Committee for FY 1988 – FY 1999; PDC for FY 2000 – FY 2001.

reorganized the agency into a more streamlined arrangement with one rather than three assistant directors. Appendix 3 contains a July 2000 organization chart for the PDC.

Figure 3 provides a big-picture view of how the PDC allocates its staff and resources between **administration** of the agency and performance of its two major duties of **information disclosure** and **enforcement**. Administration expenses include preparation for and conducting of monthly Commission meetings. The comparison uses the comparable election years of FY 1992, FY 1996, and FY 2000. The earliest year represents a year prior to passage of I-134.

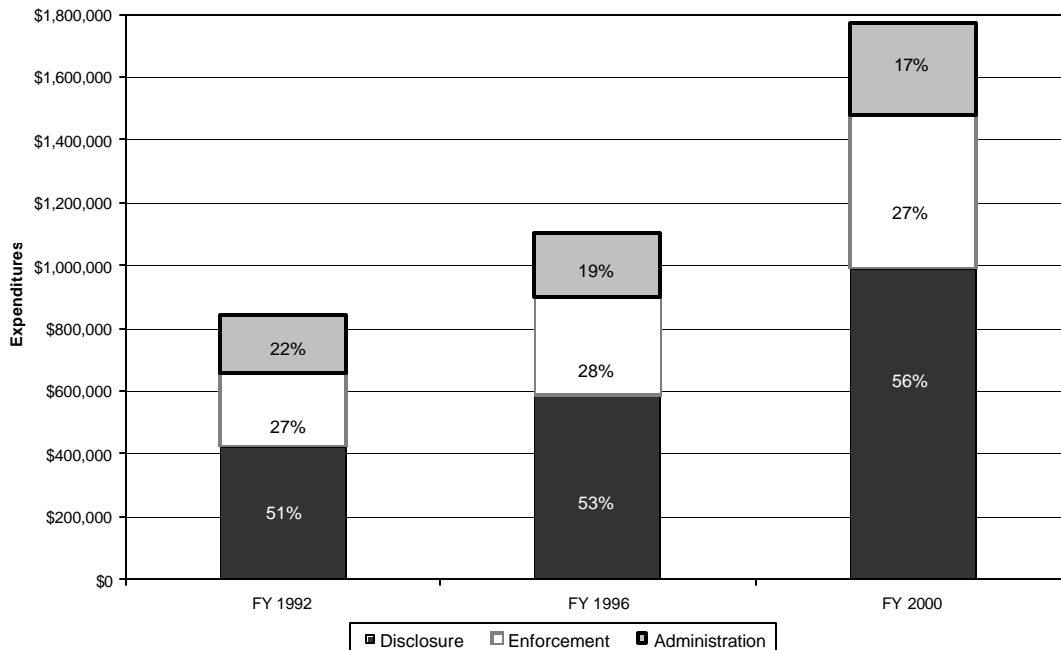
The percent of budget expenditures allocated to enforcement has remained fairly constant at about 27 percent. The agency devotes more than half of its budget expenditures to its disclosure function, with the allocation increasing slightly to 56 percent as the administration percentage declines.

This audit report now moves on to discussions of the two major PDC duties of information disclosure and enforcement, followed by a section addressing specific staffing issues. The report briefly discusses other PDC duties as well. Recommendations are listed first in connection with the relevant subject matter and then are summarized in the report's final section.

INFORMATION DISCLOSURE

The Public Disclosure Commission's duties with regard to information disclosure originate with I-276 in 1972. After a brief review of the disclosure workload, this section of the report is organized around the two key parts to the disclosure duty: (1) getting the required reports filed correctly, and (2) making the filed information

Figure 3
Over Half of PDC Resources Go To Disclosure



available to the public in some meaningful, useful manner.

THE DISCLOSURE WORKLOAD

Figure 4 illustrates both the timing and the volume of campaign, lobbyist, and financial affairs reports filed with the PDC for calendar years 1996 through 1999. The lobbyist filings show less seasonal variation, though there is an increase during each legislative session. The financial affairs filings reflect the April 15 annual filing deadline for most filers and then the requirement for candidates to file these reports within two weeks of becoming a candidate.

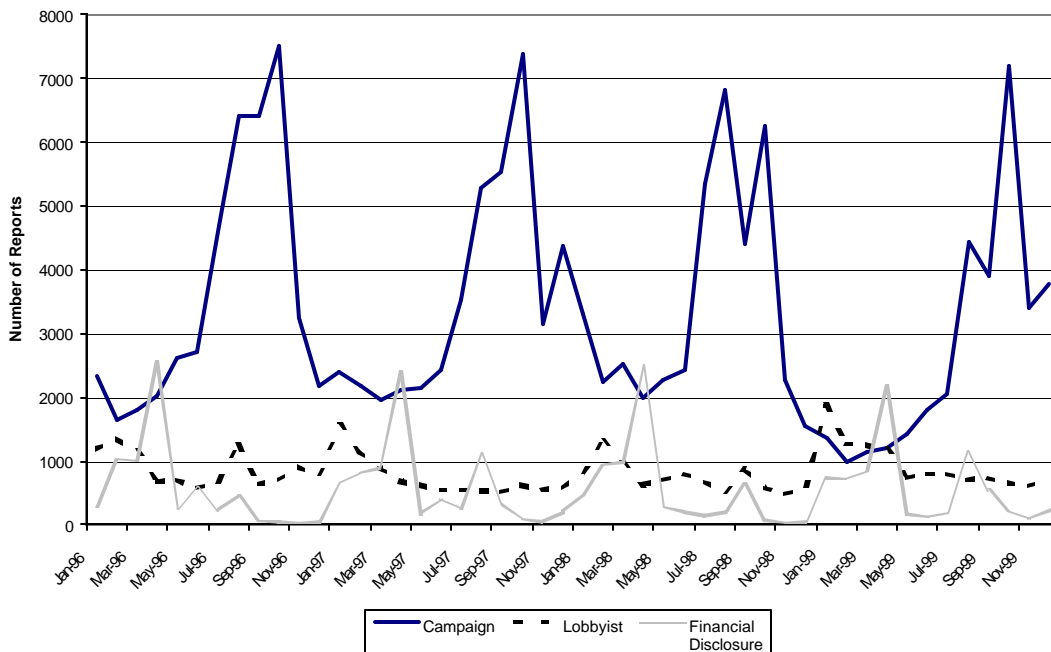
What Figure 4 shows most clearly is the dominance and the seasonality of the campaign reports in the PDC's disclosure workload. The PDC receives between 35,000 and 44,000 campaign reports per

year. Only California, with almost six times Washington's population, exceeds Washington in the number of campaign reports filed per year. In fact, only four states (Washington, California, Illinois, and New Jersey) receive 15,000 or more campaign reports per year. (Additional comparative information about the programs and filings in other states is summarized in Appendix 4.)

FILING THE REPORTS CORRECTLY

The reports filed with the PDC must not only be filed in a timely manner but must be completed correctly. To help filers complete their reports correctly, the PDC offers between 20 and 40 workshops and presentations annually. Since January 1999, the agency has posted instructions for completing the forms on its web site (<http://www.pdc.wa.gov>).

Figure 4
Reports Filed With The Public Disclosure Commission, 1996-1999



Source: Prepared by JLARC staff using PDC data.

Filers and others seeking to comply with the disclosure law also call with or e-mail questions to PDC staff. In response to a mandate from the 2000 Legislative Session, the PDC has installed a toll-free number for callers. Staff primarily responsible for responding to these incoming questions are the Director of Public Outreach and the Political Finance Specialists. The number of staff involved is small, and they are in close proximity to one another which facilitates their consulting about the appropriate responses to questions. Staff researching an answer can consult prior written responses to questions as well as Commission decisions on certain topics. The Commission staff does not, however, have a more formal system in place to guarantee that the same answers are given to callers' questions. Staff report that on occasion a caller will "shop" a question from staff person to staff person, adjusting the details of the question slightly with each iteration.

Disclosure Recommendation: The PDC should develop a more formal process to ensure that questions about how to fill out the various reports and how to comply with the disclosure law are answered accurately and consistently.

This recommendation is for the protection of callers, who need to be certain that the answers they are receiving are correct and the same for each caller, and for the protection of PDC staff, who are sometimes subjected to callers "shopping" among staff looking for a certain response.

MAKING THE INFORMATION AVAILABLE TO THE PUBLIC

Once the agency has received the reports, the second component of the disclosure duty is to make the filed information available to the public in some meaningful, useful manner. This aspect of the disclosure function has been a challenge for the agency since its inception. Paper files pour in, hundreds at a time at critical deadlines. In

the agency's earliest days (and, in fact, until recently) a person interested in a particular candidate's contributions and expenditures had little choice but to obtain copies of each of the paper filings and manually construct a picture of the information contained therein. In the early 1980s, the PDC switched to offering the public copies of documents on microfiche rather than on paper, necessitating that an interested person had access to a microfiche reader in order to go through the same exercise. This continued through the 1996 campaign.

Until 1993, the PDC employed a researcher to help ease the burden of sifting through all this information. This person maintained a database of information culled from the reports of state executive and state legislative campaigns. Media representatives report that the researcher would anticipate their information needs and questions and would assemble information for them, which in turn they would disseminate to the public. As indicated in the agency's 1981-83 Biennial Report, the agency saw this activity as an important part of its disclosure role: "Four million Washington citizens cannot make direct, personal use of the reports filed with the Commission. They necessarily rely on the agency to be their 'eyes,' to bring to them in condensed, usable form the information in the files."

When the researcher retired in 1993, the agency chose to replace the position with a computer programmer with the longer-term goal of making more data available for people to conduct their own research. This decision to remove a position that had played a key outreach role in disclosure may explain a perception that the PDC shifted resources out of its disclosure duty in the mid-1990s and into other functions.

Disclosure Technology

In 1994, the PDC began to explore options for electronic filing of reports and electronic access to filed information. Between 1994 and 1997, the PDC entered into a series of well-intentioned but ultimately inadequate vendor contracts to attempt to achieve these ends. Appendix 5 provides additional detail on these efforts as well as the legislative appropriations involved. In 1996, the agency conducted a pilot electronic filing effort with major party gubernatorial candidates. In January 1999, the PDC began posting scanned images of filed reports on the agency web site. Although consolidating information from the scanned images still required the same time-consuming and labor-intensive effort as the paper files or microfiche, it did allow a person with internet access to conduct this effort at his or her convenience without a trip or a call to the Commission office.

Legislatively-Mandated Challenges

For the 1999-01 Biennium, the Legislature provided the PDC with appropriations totaling just over \$1 million earmarked for electronic filing and enhanced public access to filed information. The Legislature also passed bills in the 1999 and 2000 Legislative Sessions requiring the PDC to meet a number of obligations. These included: (1) providing access to campaign and lobbyist reports on the agency web site, (2) more timely access to filed reports, (3) new performance measures on access to filed information, (4) development of an information technology plan, (5) the availability of an electronic filing alternative for campaign and lobbyist reports, and (6) mandatory electronic filing for some campaigns beginning in January 2002.

Executive Guidance

To assist the PDC with its technology shortcomings, the Office of the Governor directed the Department of Information

Services to find and fund an independent consultant to review the agency's situation. Even before the completion of the contract, the consultant felt compelled to alert the agency that a fundamental problem was the absence of PDC information technology (IT) staff with sufficient expertise to address its substantial technology issues. The consultant advised the PDC to recruit immediately a qualified Chief Information Officer to oversee information technology within the agency. The PDC followed this advice and, with the assistance of the Department of Information Services, hired a Chief Technology Officer in March 2000. The agency has hired one additional IT person, was able to move one existing staff member with expertise as a Political Finance Specialist into the IT unit, and is recruiting to fill two more IT positions.

PDC Response

With this unit in place, the agency has been able to move ahead with disclosure technology. Most notably, the unit designed a new query system that allows a web site user to obtain detailed information quickly about contributions to state executive and state legislative candidates, statewide ballot measure committees, and for any other campaigns filing electronically. Summary contribution and expenditure totals are available for all candidates, ballot measure committees, and other political committees. Detailed expenditure information is available for electronic filers. Results from a query may be copied and pasted into a spreadsheet for further manipulation. The information is available for the year 2000 election. The new query system allows a web site visitor to conduct many of the same kinds of analyses that the PDC researcher used to perform. The new query system debuted on September 7, 2000.

Currently, the PDC offers electronic filing for campaigns via free filing software that a filer downloads from the agency web site. The information technology unit is now

moving forward with development of an internet-based filing alternative. The unit also plans to expand the query system in the future to include many local and judicial campaigns.

While the work of the information technology unit has yielded some major improvements, inefficiencies clearly persist in the current disclosure system. For example, the PDC continues to struggle with a feature in the imaging system designed to create virtual images of electronically filed reports. Absent this feature working correctly, staff must still print and then scan electronically filed reports in order for the image to be available for viewing. The agency also continues to rely extensively on manual data entry of information from reports into the agency database. Not only is manual data entry dramatically slower than the instant data upload possible from an electronic filing, but manual data entry also inevitably creates opportunities for errors. The agency is aware of these inefficiencies and is working to correct them.

A number of legislatively mandated challenges still lie ahead for the PDC. These challenges include the availability of an electronic filing alternative for lobbyists and lobbyist employers by January 2002, and the capability to deal with increased electronic filing of campaign reports as electronic filing becomes mandatory for some campaigns in January 2002, and more campaigns in January 2004. The PDC has much to do in the next few years in order to be fully compliant with the 1999/2000 legislative mandates.

Learning From Others

The PDC is not alone in the effort it is undertaking. Our survey of other states indicates that 28 states currently offer electronic filing of campaign reports, and several others are in the building or testing phase. Direct contact with some of the “Digital Sunlight” award-winning agencies

such as the Illinois State Board of Elections and the New York State Board of Elections revealed that many of these agencies are enthused about what they have accomplished and are willing to share information with others, including lessons learned in the process.¹ Here in Washington, a number of state agencies are in the process of offering on-line government services as part of a “digital government” initiative. Particularly relevant to the PDC are the Department of Revenue’s electronic filing program and the Department of Information Services’ upcoming “Digital Academy” effort on electronic forms. The PDC should use its resources efficiently by tapping into this reservoir of experience and expertise.

Disclosure Recommendation: With regard to technology, the PDC should make use of the work of agencies in other states and here in Washington to avoid “reinventing the wheel.”

Stakeholder Input

The 1999 legislation that directed the PDC to prepare an information technology plan specified that the agency should consult with state agencies, the Department of Information Services, and stakeholders in the Commission’s work including political committees and parties, news media, and the general public. The PDC reports that it is still in the process of working with

¹ The “Digital Sunlight” study is a 1999 effort by the California Voter Foundation. The Foundation surveyed each state agency that collects campaign finance filings and evaluated the degree to which the agency makes campaign finance information available over the internet. The top seven states (Illinois, New York, Michigan, California, Hawaii, Louisiana, and Virginia) received a “Digital Sunlight” award to recognize their achievements. Washington ranked 10th, receiving a rating of “mostly sunny.” The report is available at <http://www.digitalsunlight.org/awards/report.html>.

stakeholders to gather input on their wants and needs.

“Digital Sunlight” award-winning agencies we interviewed frequently noted the importance of soliciting and using stakeholder input in designing their web disclosure sites. This same theme was echoed by Washington’s Department of Revenue with regard to filers testing its electronic filing system that businesses may use to pay their state excise taxes. Users can be a valuable source of information for improving the electronic records system on both the filing and access ends of the process. A focus group of users assembled for this audit identified a number of ideas for useful enhancements (ideas which were forwarded to the PDC).

Disclosure Recommendation: The PDC should convene an on-going stakeholder group for input into and feedback on development of the electronic records system.

The stakeholder group should include campaign, lobbyist, and financial affairs filers and an array of information users.

A SPECIAL NOTE ON DISCLOSURE

A “lesson learned” from this audit’s examination of the PDC’s venture into electronic filing and access is that filers must play a critical role in these new systems. A 1999 performance audit of the Federal Election Commission reaches the same conclusion,² as have many other state disclosure agencies. In order for the disclosure system to truly function as envisioned, with almost instant disclosure of filed information, the vast majority of filers will have to file their reports electronically. At a minimum, filers will have to type

information into a PDC template in a format that can be read and uploaded electronically. This will require a cultural shift on the part of filers, particularly veteran filers who are accustomed to filing handwritten reports on paper.

ENFORCEMENT

Another major duty of the Public Disclosure Commission is enforcement of the state campaign finance and related disclosure laws. This section of the audit report focuses on the enforcement duty, beginning with a brief discussion on statutory history and the overall enforcement workload. The focus then shifts to the two types of enforcement cases the PDC deals with: (1) cases involving failure to file a report, and (2) more substantive enforcement cases.

The PDC has had an enforcement role since its inception. Much of the enforcement workload stemming from I-276 relates to ensuring that the various disclosure forms are filled out correctly and filed in a timely manner. Enforcement of the I-276 prohibition on use of public office or public agency facilities in campaigns has also been a workload driver for the agency since its early years. Responsibility for enforcing this prohibition on state officers and state employees transferred to the new Ethics Boards in 1994, but the PDC retains jurisdiction for enforcing this prohibition at the local government level.

In the mid-1980s, between the passages of the two major initiatives, the Legislature assigned the Commission the responsibility for enforcing provisions related to false political advertising.

Voters assigned additional enforcement responsibility to the PDC with passage of I-134. The 1992 initiative included several new requirements for campaigns, one of the major changes being a limit on campaign

² Technology and Performance Audit and Management Review of the Federal Election Commission. Prepared by PricewaterhouseCoopers LLP, Volume 1 – Final Report, January 29, 1999.

contributions to candidates for state executive and state legislative offices. Other provisions in I-134 include a prohibition on the transfer of funds to other campaigns, additional disclosure requirements regarding independent expenditures, prohibitions on acting as an intermediary in delivering contributions from another person, and the legislative session freeze on soliciting and accepting campaign contributions.

THE TOTAL ENFORCEMENT CASELOAD

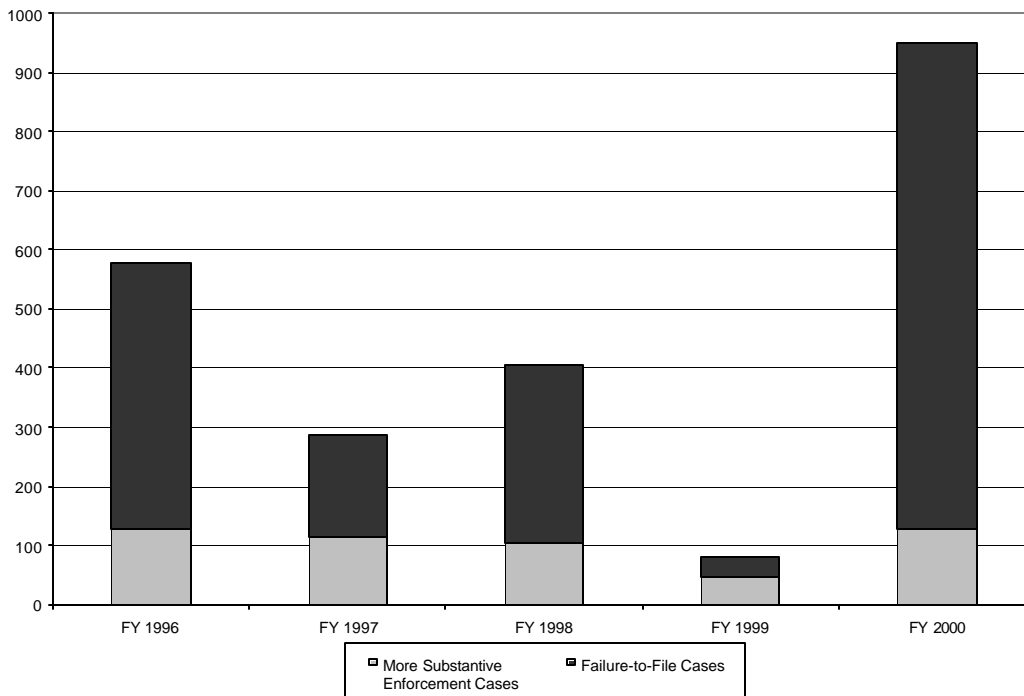
To analyze the PDC enforcement workload in more detail, JLARC staff requested enforcement case information for five recent fiscal years (FY 1996 through FY 2000). **Figure 5** shows the total volume of cases for each of these years. From the perspective of the total caseload, there appears to be a great deal of variation from year to year in the enforcement workload. However, Figure 5

also divides these yearly totals into two categories: cases dealing with the failure to file a required report, and cases dealing with more substantive enforcement issues. The major fluctuations occur in the failure-to-file cases, while the other caseload remains relatively stable. The PDC employs a different strategy for resolving the two categories of cases.

FAILURE-TO-FILE CASES

The PDC's failure-to-file process is used for: (1) elected and appointed officials who have failed to file their annual financial affairs statement, (2) candidates who have failed to file either or both a registration form and a financial affairs statement, and (3) lobbyist employers who have failed to file a required annual statement. For the five years reviewed for the audit, there were 1,779 of these cases. Of these, 48 percent were directed to candidates for local

Figure 5
PDC Enforcement Caseload FY 1996-2000,
Failure-To-File And More Substantive Enforcement Cases



Source: JLARC staff work paper on enforcement using PDC data.

government offices, 40 percent to local government officials, and 10 percent to lobbyist employers, with the remaining few cases directed to state officials, state executive or legislative candidates, and political committees that failed to register. Failure-to-file cases may be attributed to provisions of I-276.

The failure-to-file cases are processed in batches. Once the agency has clearly identified who was required to file and who has filed, the amount of investigative effort for each of these cases is minimal: either the person filed or did not file. A PDC Political Finance Specialist queries the agency database to generate a list of non-filers, then searches the scanned report system and the newly-received reports that have not yet been data-entered to confirm that a report is indeed missing. The agency then normally employs a two-letter approach to encourage these non-filers to file. A Political Finance Specialist sends a first reminder letter along with a copy of the appropriate form, asking recipients to file by a certain date. The agency reports that approximately 75 percent of recipients send in the required form in response to the first letter.

After the deadline indicated in the first letter, the remaining non-filers are scheduled for abbreviated enforcement hearings before a single commissioner. These people receive a second letter to alert them to the scheduled hearing; they are also given the opportunity to avoid the hearing by sending in the required form and a penalty payment of \$50. Approximately 15 percent more recipients send in the required forms in response to this second letter. The remaining 10 percent of non-filers appear before a single commissioner in a brief enforcement hearing.

While the process the agency traditionally employs is successful in getting non-filers to file, the agency has not always implemented the strategy consistently. For two of the five

years reviewed for this study, the agency did not pursue the approach at all (for lobbyist employers one year, and for financial affairs statements one year). In FY 2000, the agency went the other direction and skipped the first letter, resulting in a significant increase in the number of cases scheduled for brief enforcement hearings. In Figure 5 (page 9), the cases identified as failure-to-file reflect the recipients of the second letter. The change in policy for FY 2000 explains the large increase in failure-to-file cases for that year.

There is little automation in the current approach to enforcing failure-to-file cases. Much of the work is conducted manually by one of the Political Finance Specialists. This interferes with the Political Finance Specialist allocating time to answering questions for callers or investigating more complicated complaints.

Improving the Failure-to-File Process

Two *Enforcement Recommendations* are targeted at making the agency's process for addressing failure-to-file cases more efficient and more equitable:

The PDC should apply its two-letter approach consistently.

The two-letter strategy is effective in getting people to file the required information. Applying the method inconsistently is unfair to those who are the subject of these cases and may also be disruptive to PDC staff workloads.

The PDC should automate the failure-to-file process as much as possible.

Additional automation of the process will free up the Political Finance Specialists to aid callers with questions about disclosure and to work on more substantive investigations.

MORE SUBSTANTIVE ENFORCEMENT CASES

The remaining, more substantive enforcement cases are investigated individually rather than in batches and range from the simple to the complex. As Figure 5 indicates, this caseload is more stable than the failure-to-file caseload, ranging between 100 and 130 cases per year with a drop in cases in FY 1999 when, for whatever reasons, the public filed fewer complaints. A parallel may be drawn here between the enforcement and disclosure workloads. While the PDC has enforcement authority regarding campaign, lobbyist, and financial affairs filings, the three types of cases are not equally represented in this more substantive enforcement caseload. For the five fiscal years in this analysis, which includes more than 500 cases, only six of the cases are brought against lobbyists and only ten include a question on the content of a financial affairs report. Just as campaign reports dominate the disclosure workload, campaign-related cases dominate the more substantive enforcement workload.

The Investigative Process

These more substantive investigations are conducted by the agency's one Investigator or by the Political Finance Specialists, though the first priority of the Political Finance Specialists is to assist filers and others comply with the disclosure law. In the busiest filing periods, the Political Finance Specialists may spend 60 percent or more of their time responding to questions, thus reducing their availability for conducting investigations. The Investigator can devote larger blocks of time to investigations all year around. A member of the public may trigger an investigation by filing a complaint with the PDC, or the agency may initiate an investigation if it believes a violation may have occurred. Investigations may include the review of documents and the questioning of witnesses.

The agency has subpoena power to compel the appearance of both.

Once an investigation report is complete, the PDC's Assistant Director determines the staff recommendation for the disposition of the case. Three outcomes are possible: (1) the case may be dismissed or closed administratively, (2) the case may be scheduled for a brief enforcement hearing before a single commissioner, or (3) the case may be brought before the full Commission. At a brief enforcement hearing, the Assistant Director presents the staff case. At an enforcement hearing before the full Commission, an Assistant Attorney General presents the staff case. The Commission may choose at this point to refer a case to the Attorney General, for example, if the Commission believes the case warrants a penalty greater than what the Commission is allowed to assess. As of November 2000, the Commission had referred 13 cases to the Attorney General in the 1996-2000 calendar-year period.

45-Day Letters

Normally, these more substantive enforcement cases are assigned and investigated in the order in which they are received. An exception to this practice stems from a provision in I-276 called a "citizen action." A citizen may bring an action in court in the name of the state of Washington if the citizen believes someone is violating a provision of Chapter 42.17 RCW. Prior to bringing this action, the citizen must notify the Attorney General and county prosecutor of his or her intent. The citizen must then give them 45 days to determine if either will commence an action. If they choose not to and the citizen proceeds with the case and prevails, the citizen is entitled to reimbursement from the state of Washington for court costs and attorney fees. The citizen action option sat unused for decades, then came into play in the mid-1990s. In calendar years 1996 through August 2000, ten 45-day letters

have been filed with the Attorney General. In two of these cases, the Attorney General took no action based on the allegations in the letters. The remaining eight cases were forwarded to the PDC for investigation and possible action.

Receipt of a 45-day letter spurs the PDC to look into the allegations immediately. The agency will pull the Investigator and the Political Finance Specialists away from other investigations and temporarily away from answering questions for callers if the agency believes doing so is necessary to complete the investigation and bring the case before the Commission within the allotted number of days. If the amount of effort required to investigate the citizen's allegations is relatively small, the PDC can meet the deadline without much disruption to its other workload. If the allegations are more complex or are large in scope and require more extensive investigative effort, then the investigation of other complaints, and potentially the answering of questions, may be delayed.

Enforcement Recommendation: *The Legislature should make minor statutory changes regarding 45-day letters to see that the letters are delivered to the PDC at the beginning of the 45-day period and to apply the 45-day time period to the Commission's completion of the investigation phase.*

The letters could be delivered to the PDC either simultaneously with, or instead of, to the Attorney General. These minor statutory changes would give the Commission a few extra days to conduct its investigation. In addition, the Commission should monitor the impact of receipt of 45-day letters on postponing other investigations and delaying answers to disclosure questions.

Enforcement Case Outcomes

A statement frequently repeated with regard to the PDC is that, prior to I-134, the PDC was primarily a disclosure agency and that passage of I-134 turned it into an

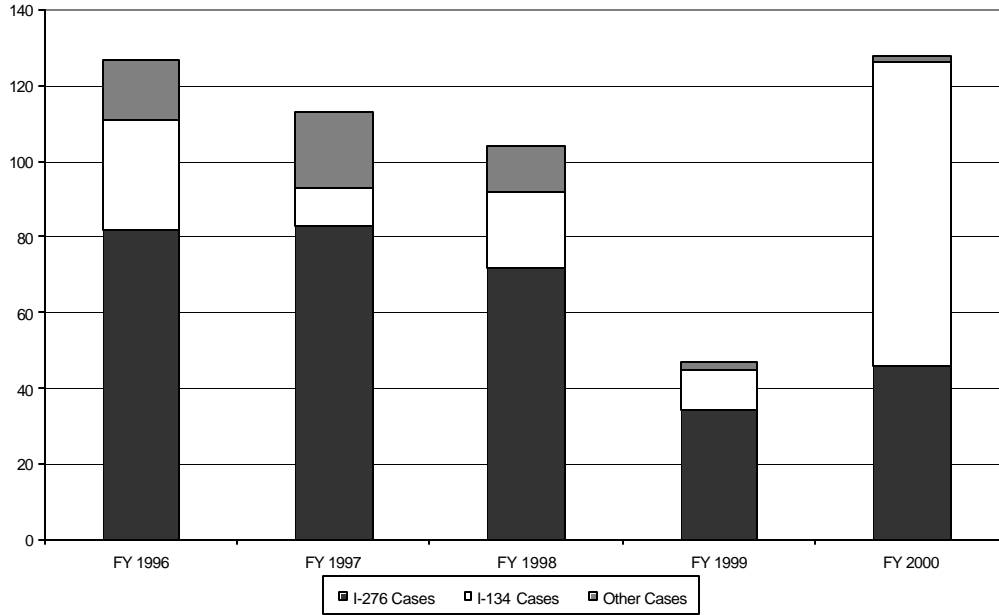
enforcement agency. If this is the case, and the vast majority of cases revolve around campaigns, do most of the cases involve alleged violations of I-134?

The short answer to this question is, "No." **Figure 6** breaks the more substantive enforcement cases into three subcategories: cases involving provisions of I-276; cases that include at least one alleged violation of I-134; and other cases, predominantly complaints involving false political advertising. As Figure 6 indicates, the more substantive investigative workload is dominated by I-276 cases. The two most prevalent complaint topics are (1) problems with the reporting of contributions and expenditures, and (2) complaints alleging the use of a public office or public facilities in a campaign. These are both the long-running workload drivers from I-276.

An element that breaks this trend may be found in the larger percentage of I-134 cases filed in FY 2000. This outcome is due to a single event: the filing of a block of 63 Initiative 134 complaints by one entity on the same day. The majority of these complaints allege a union organization making, and a candidate accepting, contributions in excess of the limits established by I-134. Absent this large block filing, there would have been 17 Initiative 134 cases for all of FY 2000, preserving the ratio among the three subcategories. It remains to be seen whether the large block filing represents a one-time event or the beginning of a new trend.

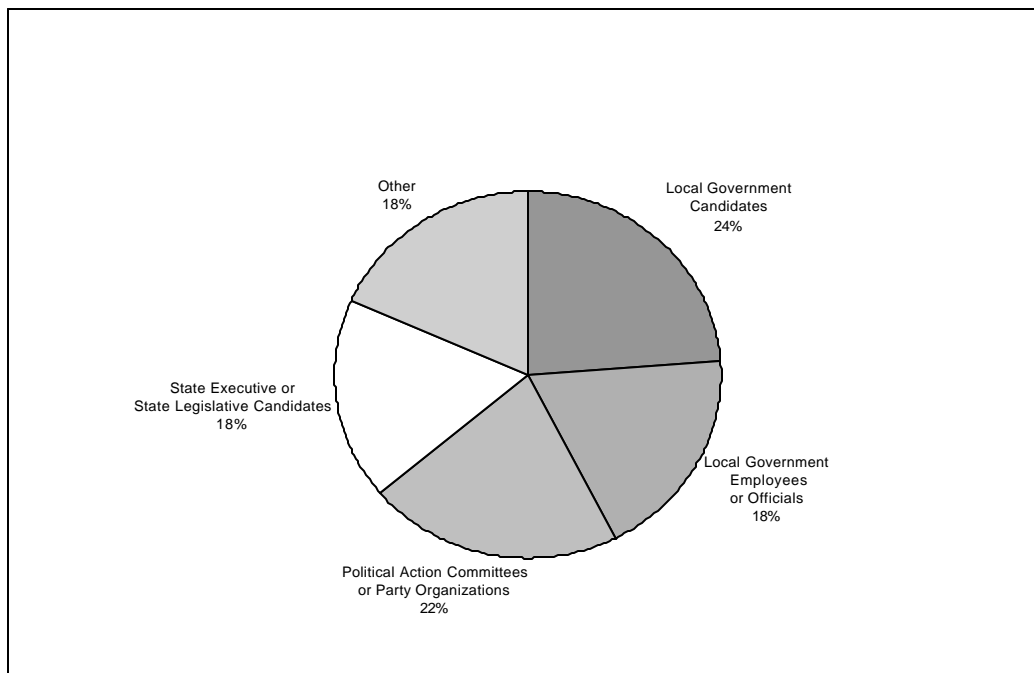
Figure 7 identifies the subjects of the more substantive enforcement cases. Candidates for local government positions are most frequently the subjects of these complaints. Local government candidates, officials, and employees combined are the subjects of 42 percent of the complaints. Political action committees and party organizations are the subjects of 22 percent of the cases, while

Figure 6
Breakdown of More Substantive Cases by I-276, I-134, and Other Cases



Source: JLARC staff work paper on enforcement using PDC data.

Figure 7
Subjects of More Substantive PDC Investigations, FY 1996-2000



Source: JLARC staff work paper on enforcement using PDC data.

candidates for state executive or state legislative positions are the subject of 18 percent of the complaints. The remaining 18 percent of cases include a variety of other subjects such as unions, public agencies, lobbyists, lobbyist employers, and individuals.

In terms of the initiation and outcomes of these more substantive enforcement cases, the PDC initiates far fewer cases than does the public (109 compared to 293 for FY 1996-2000). However, when the PDC does initiate an investigation, the result is the finding of a violation in 77 percent of the cases. Members of the public initiate more cases, but the majority of these (74 percent) are closed administratively or dismissed following an investigation or hearing. The outcomes for the more substantive enforcement cases are depicted in **Figure 8**.

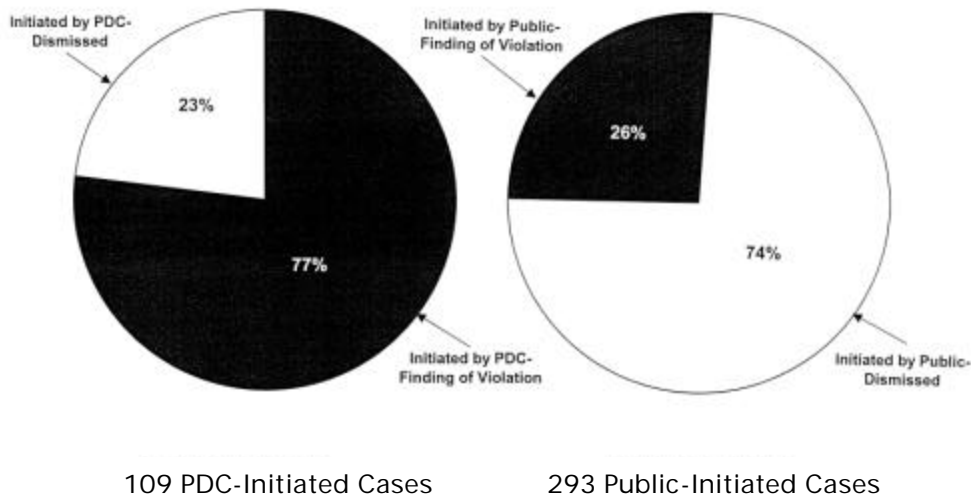
Reducing the More Substantive Enforcement Workload

A detailed analysis of the PDC's more substantive enforcement caseload reveals the

large number of complaints involving the campaign contribution and expenditure reports. Currently the PDC's free filing software provides users with an option to run a diagnostic feature that will indicate if the report contains a contribution over the allowed limit and if the filer has left out any required information. The feature does not operate automatically and must be set correctly in order to recognize the appropriate limits for a particular campaign. The Department of Revenue reports that implementation of a pre-filing review feature in its electronic filing program has reduced the error rate on filed reports from 14 percent to 3 percent in a population of 2500 filers. Reducing this most common source of complaints can lessen the total enforcement workload while at the same time helping filers comply with the disclosure law.

Enforcement Recommendation: The PDC should include an automatic check for errors and omissions in all of its electronic filing alternatives.

Figure 8
Initiation and Outcomes of PDC More Substantive Enforcement Cases
FY 1996-2000



Source: JLARC staff work paper on enforcement, using PDC data.

A SPECIAL NOTE ON ENFORCEMENT

One of the most striking discoveries from our review of the PDC's total enforcement workload is the frequency of local government entities as the subjects of enforcement cases. Some 88 percent of the failure-to-file cases are directed to candidates for local government offices and local government officials. In the more substantive enforcement workload, 42 percent of cases are directed at either candidates for local government offices or local government officials or employees. For the benefit of the disclosure function as a whole, as well as to reduce the PDC's enforcement workload, the various local government associations and offices should stress to their members and employees the importance of complying with the state's disclosure laws. This would include additional information on filing requirements, instructions on filing accurately, and clarification on inappropriate use of public offices and facilities in campaigns.

STAFFING ISSUES

Review of the processes used by the PDC to implement its disclosure and enforcement duties raises two staffing issues in the present period as well as three staffing issues to consider in the future. The two current staffing issues involve the Political Finance Specialists and the role of the Director of Compliance.

POLITICAL FINANCE SPECIALISTS

The overlap in the two major PDC duties of disclosure and enforcement is most evident in the role of the Political Finance Specialists. For disclosure, they are the primary source of information for filers and

others asking questions about how to comply with the law. On the enforcement side, they conduct investigations, question witnesses, review documents, and build a case to a conclusion as to whether or not a person has violated the disclosure law.

Currently a Political Finance Specialist is compensated at a salary range 40 (\$27,900/year to \$35,400/year), and a Senior Political Finance Specialist receives compensation at range 44 (\$30,600/year to \$39,000/year). Minimum qualifications for the Political Finance Specialist positions are a Bachelor's degree or higher and one year of experience in accounting, auditing, or examining financial records. Employment experience with a political party or committee, a political advocacy organization, or as a lobbyist is desirable. In addition to these requirements, applicants for the senior position are to have one or more of the following: managerial experience in at least three campaigns, two years accounting experience with a state or national political party, experience as a lobbyist for at least two legislative sessions, or one year experience as a Political Finance Specialist. Neither position requires specific investigative training or experience. For the most recent recruitment in August 2000, the Department of Personnel suggested advertising the qualifications as *desired* rather than *minimum* due to the current tight job market. The PDC reports that it has been challenging to fill these positions and that there has been regular turnover in these positions.

Staffing Recommendation: *The PDC should request that the Department of Personnel review the minimum qualifications and the compensation for its Senior and Political Finance Specialist positions.*

ENFORCEMENT CASELOAD MANAGER

A second staffing issue for the PDC is the absence of an enforcement caseload manager.

An enforcement caseload manager could improve the efficiency and effectiveness of the agency's enforcement function in several ways. For example, this person could maintain an active enforcement case profile and inform both the Commission and the public of changes in the size and composition of the enforcement workload over time. The person could also analyze the impacts in terms of timely completion of investigations by assigning different kinds of cases to the Investigator versus to the Political Finance Specialists. The JLARC staff analysis of the enforcement caseload is a first step in identifying which types of complaints require more or fewer hours to investigate. The most obvious first management experiment to conduct in this area is to assign to the Political Finance Specialists those complaints that have a history of taking less investigative time during periods when the specialists devote the majority of their time to their disclosure role. The person in this oversight role would monitor the impacts from alternative case allocation strategies and determine the most efficient allocation. This person could also assess the impacts of different prioritizations of complaints, for example, putting a lower priority on those complaints where the analysis of case outcomes indicates there is a low probability for a finding of a violation.

The July 2000 reorganization of the PDC created the position of Director of Compliance. Currently the Director of Compliance plays an intermediary role in each investigation and has some responsibility for overseeing the overall enforcement caseload. The Director also assists in assigning enforcement cases to the Investigator and Political Finance

Specialists. The role of the Director of Compliance could be modified to include all or most of the responsibilities of an enforcement caseload manager.

Staffing Recommendation: The PDC should modify the role of the Director of Compliance to include responsibility as an enforcement caseload manager.

A SPECIAL NOTE ON FUTURE STAFFING ISSUES

In addition to the two foregoing staffing issues, the Legislature and the Commission may want to be aware of the following three staffing issues as they consider PDC staffing requirements in the future:

- **Information Technology Staff**

As the last few years' experience with electronic filing indicates, exact information technology staffing needs are difficult to forecast accurately. Additionally, the PDC will face the same challenge as other public agencies in competing with the private sector for information technology professionals.

- **Data Entry Staff**

As long as there are a large number of filers filing reports on paper, the agency will need to retain qualified data entry personnel. However, if a large percentage of filers eventually choose or are required to use electronic filing, the need for data entry personnel will diminish. The performance measures in place and an additional measure recommended in this audit will help track this transition from paper to electronic filing and assist in monitoring the need for manual data entry.

- **Changes to the Enforcement Workload from Electronic Filing and Access**

Some of the disclosure agencies in other states are further along the path of electronic filing and access than

Washington State's PDC. Conversations with these agencies identified two countervailing impacts to their enforcement workload. On one hand, the features on the electronic filing products that are intended to prevent filers from sending in reports with errors or omissions help reduce the number of enforcement cases. On the other hand, the number of complaints may increase because the information is so much more accessible and easy to peruse than ever before. The person in the modified role of Director of Compliance could help to monitor the changes that occur in Washington and to explore the implications for enforcement staffing.

OTHER PDC DUTIES

This section briefly touches on two additional duties of the PDC: (1) reporting on its performance and (2) compliance with its statutory reporting requirements.

PERFORMANCE MEASURES

Like all state agencies, the PDC has a duty to report on its performance. Prior to the 1999 Legislative Session, the PDC used performance measures such as the percentage of filers who meet filing deadlines, the number of paper files pulled for public inspection, and the number of times the PDC web site is accessed.

In 1999, the Legislature directed the agency to adopt several more performance measures including one to track the average number of days that elapse between the Commission's receipt of reports and the availability of that filed information both in the Commission office and on the agency web site. Other measures identified by the Legislature include tracking the percentage of various types of filers who file by paper or by an electronic method. The Commission has complied with these legislative mandates

and has adopted the requisite performance measures. The Commission has also adopted the Legislature's prescribed goals for making filed information available to the public in a more timely manner, again both in the Commission office and on the agency web site.

Two of the PDC performance measures, when viewed in tandem, help track the public's transition to electronic viewing of filed information. These two measures are the number of paper files pulled for public inspection (this number dropping rapidly) and the number of visits recorded on the query page and the "view reports" page of the agency web site (this number rapidly increasing). Consideration of two other performance measures in tandem will help track the transition from paper to electronic filing. The agency already counts the number and percent of various types of filers who use electronic filing. To gain the full picture, it is also important to keep track of the number of reports and number of pages which still have to be data-entered by hand and, of equal importance, the accuracy of that data entry. The PDC can easily keep track of the number of reports and number of pages going through its data-entry process. The agency also recently launched a quality assurance program to assess the accuracy of data being entered into the database manually; the first conclusions from that effort are not yet available for inclusion in this audit.

Other Duties Recommendation: In addition to its existing performance measures, the PDC should report on the number of filings and number of pages that are data-entered by hand and the accuracy of the data entry.

STATUTORY REPORTING REQUIREMENTS

Again like all agencies, the PDC has a duty to comply with statutory requirements. The statutes assign two reporting requirements to

the agency, one from I-276 and one from I-134.

I-276 directed the agency to publish an annual report on the effectiveness of Chapter 42.17 RCW. In its earlier years, the agency published some detailed annual reports to report on the implementation of the new law. Over time these dwindled to one-page reports each biennium and then stopped altogether, with the exception of one annual report prepared for FY 1995. The absence of a regular annual report caught the attention of the State Auditor's Office in 1999. In response, the agency plans to prepare a report covering FY 1998, FY 1999, and FY 2000 by the end of December 2000.

I-134 directed the PDC to conduct audits and field investigations to provide a finding regarding filers' compliance with the disclosure law. The agency does calculate a performance measure on the percentage of filers who meet the statutory filing deadlines. PDC staff also conduct "desk audits" or brief reviews of incoming reports as well as a small number of in-depth audits every year. However, the agency does not synthesize the results from these various efforts into a specific finding with regard to filer compliance with the disclosure law, a finding which the agency could then include as part of its annual reporting.

Other Duties Recommendation: The PDC should comply with its two statutory reporting requirements.

The agency will have much to report to the Governor, the Legislature, filers, and information users as the PDC works to implement numerous changes in the next few years.

SUMMARY OF RECOMMENDATIONS

1. To improve the operation of its disclosure function, the Public Disclosure Commission should:

- (1-1) Develop a more formal process to ensure that answers to questions are accurate and consistent;

Legislation Required: No

Fiscal Impact: None

Completion Date: July 2001

A number of the measures the PDC is proposing to implement regarding this recommendation can be completed in 60-90 days. The reference manual the agency is proposing should be completed prior to the next campaign season.

- (1-2) Make use of other agencies' technology experience and expertise to avoid "reinventing the wheel;" and

Legislation Required: No

Fiscal Impact: No additional implementation costs; the agency may realize savings as a result of its contacts.

Completion Date: January 2001 and ongoing

- (1-3) Convene an ongoing stakeholder group of filers and users to provide input into and feedback on the development of the electronic records system.

Legislation Required: No

Fiscal Impact: None

Completion Date: January 2001 and ongoing

2. To improve the operation of its enforcement function, the Public Disclosure Commission should:

(2-1) Automate its failure-to-file process as much as possible, and apply its two-letter approach consistently for the failure-to-file enforcement cases;

Legislation Required: No

Fiscal Impact: None

Completion Date: July 2001

(2-2) Monitor the impact of receipt of 45-day letters on postponing other investigations and delaying answers to disclosure questions; and

Legislation Required: No

Fiscal Impact: None

Completion Date: January 2001

(2-3) Include an automatic check for errors and omissions in all of its electronic filing alternatives.

Legislation Required: No

Fiscal Impact: None

Completion Date: January 2002

3. To improve the operation of the Public Disclosure Commission's enforcement function, the Legislature should make minor statutory changes regarding 45-day letters:

(3-1) To deliver the letters to the PDC directly; and

(3-2) To apply the 45-day time period to the completion of the investigation phase.

Legislation Required: Yes

Fiscal Impact: None

Completion Date: 2001 Legislative Session

4. With regard to specific staffing issues, the Public Disclosure Commission should:

(4-1) Request that the Department of Personnel review the minimum qualifications and the compensation level for the PDC's Political Finance Specialist positions; and

Legislation Required: No

Fiscal Impact: There is not a fiscal impact associated with requesting the review; the outcome of the review could include a recommendation for changing the compensation level for these positions.
Completion Date: January 2001 for the request.

(4-2) Modify the role of the Director of Compliance to include responsibility as an enforcement caseload manager.

Legislation Required: No

Fiscal Impact: None

Completion Date: January 2001

5. To improve the operation of its other duties, the Public Disclosure Commission should:

(5-1) Incorporate into its performance measures a report on the number of filings and number of pages that are data-entered by hand and the accuracy of that data entry; and

Legislation Required: No

Fiscal Impact: None

Completion Date: July 2001

(5-2) Comply with its statutory reporting requirements.

Legislation Required: No

Fiscal Impact: None

Completion Date: July 2001

AGENCY RESPONSES

The Public Disclosure Commission (PDC) and the Office of Financial Management (OFM) have responded to the recommendations contained in this report. Both the PDC and OFM concur with each of the recommendations. Their written comments are provided in Appendix 2.

ACKNOWLEDGEMENTS

We would like to thank the members and the staff of the Public Disclosure Commission for the time and information they provided for this performance audit. We would also like to thank the participants in our focus group for sharing with us their ideas and observations about filing and accessing campaign finance information.

Thomas M. Sykes
Legislative Auditor

This report was approved for distribution by the Joint Legislative Audit and Review Committee.

Senator Georgia Gardner
Chair

APPENDIX 1 – SCOPE AND OBJECTIVES

BACKGROUND

In 1972, passage of Initiative 276 created the Public Disclosure Commission and required the disclosure of financial and other information by public officials, candidates, and others. In 1992, a second initiative, Initiative 134, imposed contribution limits and other restrictions on fund-raising and campaign expenditures. The Commission implements and enforces both initiatives.

The Public Disclosure Commission is the repository for hundreds of thousands of documents. In the mid-1990s, the Legislature and the Commission began exploring the establishment of an electronic version of the records system, in which information would be available for public review on an agency web site and documents could be filed with the Commission electronically. In 1999, the Legislature established specific targets and timelines for the Commission in terms of making filed information available to the public on-line and with regard to electronic filing. During the 2000 Legislative Session, the Legislature revised these timelines in order to provide the Commission with additional time to achieve these objectives. The 1999 legislation directed JLARC to complete a performance audit of the “duties and staffing” of the Public Disclosure Commission by December, 2000.

SCOPE

Consistent with E2SSB 5931 from the 1999 Legislative Session, this performance audit will review the duties and staffing of the Public Disclosure Commission. The audit will include a review of how the duties of the Commission have changed over time and how the Commission has responded to these

changes in the allocation of its staff and resources.

OBJECTIVES

1. Identify historic and current Public Disclosure Commission duties, workload, funding levels, staffing levels, and resource allocation.
2. Compare the findings from (1.) above with duties, workload, etc., of agencies in other states that perform similar functions.
3. Determine if the Commission’s current allocation of staffing and resources is efficient and effective. Determine if there are viable alternatives for reducing costs or improving service delivery.
4. Determine if the Commission is using appropriate measures to report its performance in fulfilling its duties.
5. In particular, determine if the Public Disclosure Commission is on schedule to meet the requirements established by the Legislature in 1999 and 2000 for an electronic records system. Determine if the electronic records system is being designed to meet the needs of system users including filers, Commission staff, and people seeking access to filed information.

APPENDIX 2 – AGENCY RESPONSES

- Public Disclosure Commission
- Office of Financial Management



STATE OF WASHINGTON

PUBLIC DISCLOSURE COMMISSION

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November 20, 2000

Thomas M. Sykes, Legislative Auditor
Joint Legislative Audit and Review Committee
506 16th Avenue SE
Olympia, WA 98501-2323

Dear Mr. Sykes:

Thank you for the opportunity to respond to the Joint Legislative Audit and Review Committee's staffing and duties performance audit of the Public Disclosure Commission (PDC). As noted in the enclosed formal response, PDC concurs with each of the components of the five JLARC recommendations and is confident that implementing these changes will improve the agency's operation.

With respect to the report's "Special Note on Disclosure," I agree with the assessment that, in order for the disclosure system to function as intended by the legislature and as expected by the public, the vast majority of filers must file electronically. In the 2000 elections, only 4 percent of campaigns filed electronically. The impact of the cultural shift required of filers to satisfy the public demand for instant information may well be dramatic. "Real-time" disclosure is a reform measure that offers real promise.

Regarding the report's "Special Note on Enforcement" inviting the various local government associations to take a leadership role in educating officials about their responsibilities under the disclosure law, PDC would welcome the opportunity to assist these associations by regularly participating in their annual meetings or regional conferences. Proper training remains the key to fostering compliance with the law.

The final "Special Note on Future Staffing Issues" highlights three management concerns that will be monitored closely.

On behalf of the members and staff of the Commission, thank you for the courtesy and consideration you and your staff routinely demonstrated over the course of the audit. PDC has many challenges ahead and the audit's findings will assist us in fulfilling our mission.

Sincerely,

Vicki Rippie
Executive Director

cc: Members, Public Disclosure Commission
Fred Hellberg, Senior Policy Analyst, Office of Financial Management

*"The public's right to know of the financing of political campaigns and lobbying
and the financial affairs of elected officials and candidates far outweighs
any right that these matters remain secret and private."*

RCW 42.17.010 (10)



PDC Response to JLARC Preliminary Report

November 20, 2000

Recommendation 1 -- Disclosure Function

1-1 Develop a more formal process to ensure that answers the agency provides to questions are accurate and consistent.

Agency Position: Concur

To ensure accuracy and consistency in question responses, the agency is instituting a more formal process that includes the components outlined below.

- All question responses will continue to be based on the statute, case law, rules, declaratory orders, interpretations, instruction manuals and previous advisory letters.
- All new, complex or unusual questions will continue to be brought to management's attention, and the commission's if necessary, for consideration prior to response.
- Management will continue to notify staff via e-mail of any new interpretations and initiate reminders about seasonal issues (e.g., legislative session freeze).
- Place "Frequently Asked Questions" on PDC web site.
- Continue to hold in-depth staff training sessions on campaign, lobbying and personal financial affairs provisions of the statute at appropriate intervals.
- Hold brief weekly meetings addressing filer questions.
- Specialists receiving unusual questions will alert other staff by e-mail.
- All staff will receive copies of substantive e-mail responses.
- Copies of written communications will be maintained electronically by statutory section number and accessible to all staff.
- A reference manual that annotates statutory provisions with applicable case law, rules, declaratory orders and interpretations will be assembled.

1-2 Make use of other agencies' technology experience and expertise to avoid "reinventing the wheel."

Agency Position: Concur

The Commission's Chief Technology Officer (CTO) recently participated in the Electronic Filing Conference sponsored by the Center for Governmental Studies and will attend the technology sessions offered at the December 2000 conference of the Council on Governmental Ethics Laws. Both offer excellent opportunities to learn from the experience of comparable agencies in other states. In addition, the CTO is contacting the top seven states in the "Digital Sunlight" study (Illinois, New York, Michigan, California, Hawaii, Louisiana and Virginia) to obtain information about their systems. The CTO will continue discussions with those states as well as other agencies within Washington that are developing or using Internet-based applications for electronic filing. Web-based applications are considered superior to software for PDC filing purposes because it is easier for filers to use and more economical to maintain and upgrade.

1-3 Convene an ongoing stakeholder group of filers and users to provide input into and feedback on the development of the electronic records system.

Agency Position: Concur

While there likely will be overlap in the stakeholders who are interested in the three major web-based applications designed by PDC -- campaign, lobbying and personal financial affairs reporting -- the makeup of the stakeholder meetings may well change depending upon the issue at hand. PDC is currently in the process of scheduling two stakeholder meetings, one each in December and January, in preparation for designing a lobbyist and lobbyist employer reporting application. Representatives from businesses, unions, associations, public interest groups and the media are being invited to participate. In addition, PDC will benefit from the input provided by the JLARC performance audit and the focus group work paper developed as part of the audit process. PDC has a long history of utilizing public input to shape its policies and rules and will continue this practice with respect to electronic reporting systems.

Recommendation 2 -- Enforcement Function

2-1 Automate its failure-to-file process as much as possible, and apply its two-letter approach consistently for the failure-to-file enforcement cases.

Agency Position: Concur

PDC is continually examining its processes in order to identify those components that lend themselves to automation. For example, before it is possible to determine which of the 5,500 annual personal financial affairs filers have failed to submit the F-1 report, each of the 1,066 jurisdictions having officials who are subject to this requirement is contacted and asked to supply information about its officials. PDC staff must then data enter identifying information for each official. This year, PDC will pilot test acquiring this information electronically. The agency will also obtain an e-mail address for each jurisdiction to facilitate electronic communication with all jurisdictions.

PDC will further automate the process for identifying non-filers and sending them reminder notices. The process will incorporate measures to protect against mistakes.

It will also be critical to the efficient use of resources to replace the manual process for entering information from declarations of candidacy with a system where counties and the Secretary of State's Office electronically transmit data regarding candidates who have officially filed for office.

The PDC will continue to use the two-letter process in failure-to-file cases regarding F-1, C-1 and L-3 reports because it is effective and efficient. There may continue to be concern on the part of some commissioners that this approach does not foster timely disclosure and is less than equitable to officials and candidates who file by the statutory deadline.

2-2 Monitor the impact of receipt of 45-day letters on postponing other investigations and delaying answers to disclosure questions.

Agency Position: Concur

Each staff member involved with a 45-day letter investigation will track other work assignments that go unattended during the course of that investigation. The Director of Compliance will maintain these records and periodically report the results to the Commission.

2-3 Include an automatic check for errors and omissions in all of its electronic filing alternatives.

Agency Position: Concur

As noted in the audit, the current campaign electronic filing software does include an option to activate a diagnostic feature that checks for missing information and contributions that exceed the limit. All new applications will include an automatic pre-filing check for errors and omissions. If reports are filed in spite of the errors noted, a similar feature on PDC's server will allow the agency to conduct instant desk-audits, identify the most common mistakes and better educate filers.

Recommendation 3 -- Minor Statutory Changes Re 45-Day Letters

3-1 To deliver the letters to the PDC directly.

Agency Position: Concur

As time is of the essence in evaluating and investigating the allegations made as part of a citizen action being pursued under RCW 42.17.400(4), requiring that citizens provide PDC with a copy of the notice being filed with the Attorney General would be helpful. Although the Office of the Attorney General typically sends a copy of 45-day letters promptly to PDC, this recommended change would remove any potential for delay.

3-2 To apply the 45-day time period to the completion of the investigation phase.

Agency Position: Concur

Since 1996, the PDC has conducted eight investigations as the result of 45-day letters. All but one has required extensive document review and numerous interviews. Since due process considerations require that persons against whom a complaint has been filed are given a minimum of two weeks to respond to the allegations made as well as adequate time to provide documents, and these persons also have the right to counsel when being interviewed (meaning that several people's schedules must be accommodated), 45 days is frequently not enough time in which to conduct a thorough investigation, prepare the necessary reports and charging documents, and hold a hearing before a citizen commission that only meets periodically. According to statute, if the Attorney General has not commenced legal action within the 45 days, after giving further notice of his or her intent, the

citizen may file suit as of the 11th day following this second notice unless the AG or a prosecuting attorney has done so.

Applying the 45-day time frame to the investigation phase of the process would be an improvement; changing the provision to allow 45 business days for completing the investigation would also satisfy the statutory intent while taking into account at least some of the due process and practical considerations inherent in the Administrative Procedure Act.

Recommendation 4 -- Staffing Issues

4-1 Request that the Department of Personnel review the minimum qualifications and the compensation level for the PDC's Political Finance Specialist Positions.

Agency Position: Concur

By the end of the year, the Public Disclosure Commission will implement this recommendation, believing that the salary level of the political finance specialists is not commensurate with their responsibilities. The agency is also researching this issue with comparable boards and commissions in other states. The Department of Personnel's own salary survey recommends changing the existing range 40 positions to a range 44, and the current range 44 positions (senior specialists) to a range 48. Implementing these upgrades would cost approximately \$60,000 in the 2001-2003 biennium for salary and benefit increases for the five specialist positions. PDC is unable to absorb this additional cost and it was not included in the agency's budget submission. A thorough DOP evaluation of the positions could conclude that salary ranges higher than those proposed in the survey are warranted.

4-2 Modify the role of the Director of Compliance to include responsibility as an enforcement caseload manager.

Agency Position: Concur

While senior administrators of the agency have considered the Director of Compliance as responsible for caseload management, it is doubtful that the full breadth of duties associated with this task has been fully appreciated. PDC will attempt to identify case management training options and also will devote more attention to prioritizing enforcement cases.

Recommendation 5 -- Other Duties

5-1 Incorporate into its performance measures a report on the number of filings and number of pages that are data-entered by hand and the accuracy of that data entry.

Agency Position: Concur

Records show that for the 13 months between August 1999 and September 2000, data from 52,755 pages (36,648 forms) have been entered by hand into the data base. This includes C-4 contribution and expenditure totals for all candidates and political committees filing paper reports (about 1,420 filers), and detailed contribution data (from C-3 reports and Schedules B, C and L) for 294 state executive and legislative candidates and 13 ballot measure committees filing paper reports.

By December 1, 2000, the agency will begin keeping more detailed records of the number and types of forms processed by each data entry staff person.

With respect to data accuracy, beginning in early July 2000, the PDC hired temporary quality assurance employees to check the accuracy of entered data. When errors were found, they were corrected, and the agency is taking steps to improve in-house training to promote greater accuracy. Information Technology (IT) staff also developed a computer program to identify duplicate entries in the data base.

In the near future, IT staff will design more sophisticated programs that monitor the quantity and quality of work performed by individual data entry personnel.

5-2 Comply with its statutory reporting requirements.

Agency Position: Concur

PDC will publish annual reports covering FY 1998, FY 1999, and FY 2000 by the end of December 2000. These reports will include detailed information concerning the agency's accomplishments during these fiscal years as well as the agency's assessment of how well filers are complying with the disclosure law. Prospectively, following the close of each fiscal year, PDC will release an annual report that includes filer compliance projections.



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STATE OF WASHINGTON

OFFICE OF FINANCIAL MANAGEMENT

Insurance Building, PO Box 43113 • Olympia, Washington 98504-3113 • (360) 753-5459

November 20, 2000

Thomas M. Sykes
Legislative Auditor
Joint Legislative Audit and Review Committee
506 16th Avenue S.E.
Olympia, Washington 98501-2323

Dear ^{TOM} Mr. Sykes:

The Office of Financial Management (OFM) has reviewed the Preliminary Report on the Public Disclosure Commission Performance Audit, dated November 16, 2000. The following are OFM's positions on each of the recommendations in the Preliminary Report:

RECOMMENDATION	AGENCY POSITION
Recommendation 1-1 Develop a more formal process to ensure that answers the agency provides to questions are accurate and consistent.	Concur
Recommendation 1-2 Make use of other agencies' technology experience and expertise to avoid "reinventing the wheel."	Concur
Recommendation 1-3 Convene an ongoing stakeholder group of filers and users to provide input into and feedback on the development of the electronic records system.	Concur
Recommendation 2-1 Automate its failure-to-file process as much as possible, and apply its two-letter approach consistently for the failure-to-file enforcement cases.	Concur
Recommendation 2-2 Monitor the impact of receipt of 45-day letters on postponing other investigations and delaying answers to disclosure questions.	Concur
Recommendation 2-3 Include an automatic check for errors and omissions in all of its electronic filing alternatives.	Concur

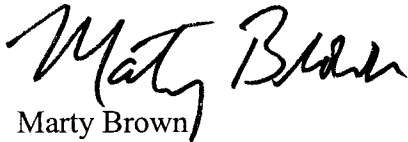


Thomas M. Sykes
November 20, 2000
Page 2

RECOMMENDATION	AGENCY POSITION
Recommendation 3-1 Deliver 45-day letters to the PDC directly.	Concur
Recommendation 3-2 Apply the 45-day time period to the completion of the investigation phase.	Concur
Recommendation 4-1 Request that the Department of Personnel review the minimum qualifications and the compensation level for the PDC's Political Finance Specialist positions.	Concur
Recommendation 4-2 Modify the role of the Director of Compliance to include responsibility as an enforcement caseload manager.	Concur
Recommendation 5-1 Incorporate into its performance measures a report on the number of filings and number of pages that are data-entered by hand and the accuracy of that data entry.	Concur
Recommendation 5-2 Comply with its statutory reporting requirements.	Concur

Thank you for the opportunity to review and comment on the Preliminary Report.

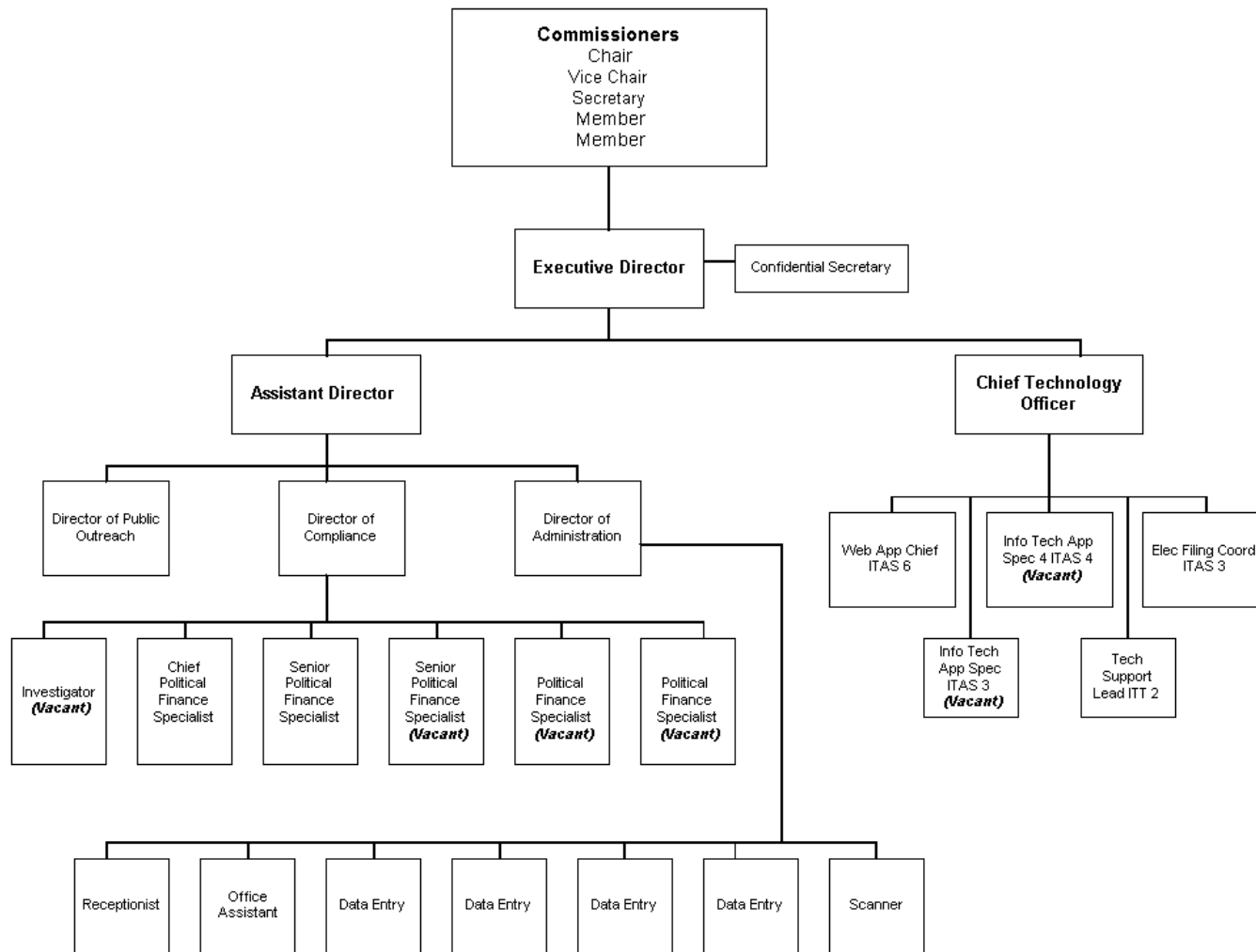
Sincerely



Marty Brown
Director

APPENDIX 3 – PDC ORGANIZATION CHART, JULY 2000

See Following Page.



APPENDIX 4 – 50-STATE COMPARISON

The table found on pages 39 through 45 compares various attributes of the agencies or agency divisions around the country responsible for collecting and providing public access to campaign finance documents. Here is some summary information culled from the table:

I. WHO COLLECTS CAMPAIGN FINANCE FILINGS?

The most common answer to this question is “the Secretary of State.” A division within the Secretary of State’s office – typically an election-related division – collects campaign finance filings in 23 states. In eight states, a separate Board of Elections receives the filings, in addition to conducting elections. In another eight states, the task of collecting campaign finance filings falls to a state Ethics Commission. These commissions are also responsible for enforcing a state’s ethics laws. A different independent agency collects campaign finance filings in 10 states, including Washington. One office falls into the category of “Other;” the State Elections Office in Utah collects campaign finance filings and is located within the Lieutenant Governor’s office.

II. WHO COLLECTS LOBBYIST FILINGS?

Here there is a virtual tie for the most common response, with 19 states assigning this task to a state Ethics Commission and 18 states going with the Secretary of State’s office. In 11 states, a different independent agency collects the lobbyist filings. In Nevada, a Bureau within the Legislature collects these filings, while the same Utah office that collects campaign finance filings also collects lobbyist filings (and financial disclosure filings as well).

III. WHO COLLECTS FINANCIAL DISCLOSURE FILINGS?

In half of the states in the country, a state Ethics Commission collects filings dealing with personal financial disclosure of candidates and various elected and appointed officials. This task is the responsibility of a different independent agency in 11 states, while the Secretary of State has this assignment in 10 states. In Utah, financial disclosure filings go to the office within the Lt. Governor’s office. The staff for two states report that their respective states (Idaho and Vermont) do not require the filing of financial disclosure reports. Michigan only requires financial disclosure from the members and staff of the state Gaming Control Board; the Board members and key employees file with the Governor, while other employees file with the Board.

IV. HOW DOES THE VOLUME OF CAMPAIGN FINANCE FILINGS VARY AMONG THE STATES?

The states of Washington and California collect more campaign finance documents than any other states. In fact, only four states (California, Illinois, New Jersey, and Washington) report collecting 15,000 or more campaign finance reports per year. Six states receive between 10,000 and 15,000 campaign finance filings (Florida, Louisiana, Michigan, Missouri, Oklahoma, and Pennsylvania). The majority of states collect less than 10,000 reports in a year, with 12 states reporting filings of between 5,000 and 10,000 reports and 25 states reporting collection of fewer than 5,000 campaign finance filings annually. At this point we are missing information on the volume of filings for three states (Georgia, Iowa, and Nebraska).

There are a number of different reasons for the variation in the number of campaign finance filings. There is variation among states in terms of who files with a state-level office versus at a local level such as with a county auditor. For example, some state offices do not receive filings for local government candidates. There is variation in the number of different kinds of reports a committee must file. There is also variation in the frequency with which filers must file. Some states are greater population centers and have a larger number of cities, towns, and units of local government run by elected officials. Some states have a larger number of appointed rather than elected officials.

V. WHO ENFORCES THE CAMPAIGN FINANCE FILING AND RELATED STATUTES?

In most (but not all) states, the agency or division that collects campaign finance filings has some way to either alert or penalize those who file late or who fail to file at all. At the other end of the spectrum, most (but not all) states have a mechanism to draw in the services of the State Attorney General or an equivalent to investigate potentially criminal violations. In between these two endpoints, there is a great deal of variation among states. Some states assign primary enforcement authority to the collector of the filings; others create an enforcement role for a separate agency, while still others allocate different aspects of the enforcement/compliance function between the agency collecting the documents and a separate agency.

VI. IN HOW MANY STATES IS ELECTRONIC FILING OF CAMPAIGN FINANCE REPORTS OFFERED? IN HOW MANY STATES IS ELECTRONIC FILING MANDATORY, EITHER NOW OR SCHEDULED TO BE IN THE FUTURE?

Twenty-eight states currently offer electronic filing, and several others are in the building or testing phase of electronic filing systems. Electronic filing is or will be mandatory for at least some candidates or committees in 21 states, including Washington. What is clear from speaking with these offices around the country is that the electronic filing of campaign finance reports and the posting of campaign

finance information on an agency web site is not “the wave of the future;” it’s the wave of the present.

VII. IN WASHINGTON, THE PUBLIC DISCLOSURE COMMISSION RECEIVES CAMPAIGN FINANCE FILINGS, LOBBYIST FILINGS, AND FINANCIAL DISCLOSURE REPORTS. HAVE ANY OTHER STATES DESIGNATED ONE AGENCY TO COLLECT ALL THREE TYPES OF FILINGS? HOW DO THESE STATES COMPARE TO WASHINGTON?

In 20 states, one agency or division within an agency collects all three kinds of reports. The table on page 38 provides a comparison of just these states. In some cases, the agency is a separate independent agency like the PDC. In other cases, the collector is a separate state ethics commission or a division within the Secretary of State’s office. In two states not included in the table (Colorado and North Dakota), the Secretary of State’s office receives all three kinds of reports, but the work is allocated between two different divisions within the office.

The table can be useful in comparing the volume of reports filed and in assessing whether the agency also plays a major enforcement role with regard to campaign finance filings. The table also provides information about budget and staffing, but this information is less useful because many of the agencies or divisions are non-comparable in terms of their responsibilities. For example, an elections division that receives campaign finance filings is also responsible for and budgeted for conducting elections. Nonetheless the table provides some idea of the order of magnitude of the funding and staffing effort provided for campaign finance programs, ranging from \$500,000 for the entire Secretary of State budget with one person responsible for elections as well as campaign, lobbyist, and financial disclosure reports (South Dakota) to a core staff of 53 and a \$2.9 million budget for the Election Law Enforcement Commission in New Jersey.

State	Agency or Division	Does the Agency Also Have Primary Enforcement Responsibility?	Number of Annual Filings	Annual Budget	Number of Staff
Alaska	Public Offices Commission	Yes	2200-3700 campaign 3250 lobbyist 2000 disclosure	\$733,000	11 full-time 1 part-time for Comm
Arizona	Secretary of State, Elections Services Division	No	4200 campaign 5200-5700 lobbyist 500-700 disclosure	\$3.9 million for the Division	8 for the Division
Arkansas	Secretary of State, Elections Department	No	2520 campaign 4200 lobbyist 3000 disclosure	\$2.2 million for the Department	5 for the Department
Iowa	Ethics and Campaign Disclosure Board	Yes	???	\$500,000	8 for the Board
Kansas	Governmental Ethics Commission	Yes	5250 campaign 6120 lobbyist 6120 disclosure	\$553,000	9 full-time 1 part-time plus temps to enter data
Louisiana	Board of Ethics & Supervisory Cmte on Campaign Finance Disclosure	Yes	13,000 campaign 1650 lobbyist 200 disclosure 400 "nepotism"	\$1.3 million	21 or 22 for the Board
Maine	Commission on Governmental Ethics and Election Practices	Yes	3460 campaign, including disclosure 2400 lobbyist	\$138,000	6 for the Commission + 2 counsel from AG's Office
Minnesota	Campaign Finance and Public Disclosure Board	Yes	3350 campaign 9040 lobbyist 1071 disclosure	\$526,000	9 for the Board
Missouri	Ethics Commission	Yes	12,000 campaign 10,800 lobbyist 9000 disclosure	\$1.37 million	21 to 25 for the Commission
Montana	Commissioner of Political Practices	Yes	200-1200 campaign 3200 lobbyist 800-1200 disclosure	\$351,000	4 for the Commissioner's office
Nebraska	Accountability and Disclosure Commission	Yes	???	\$440,000	8 for the Commission
New Jersey	Election Law Enforcement Commission	Yes	25,000 of all filing types, combined	\$2.9 million for the Commission; \$600,000 for a public financing program	53 for the core staff of the Commission; 11 more for public financing program
New Mexico	Secretary of State, Ethics Administration	Yes	7200 campaign 3000 lobbyist 2000 disclosure	\$2.3 million for all of the Secretary of State's office	3 to 4 for the Ethics Administration
Oklahoma	Ethics Commission	Yes	10,000 campaign 1000 lobbyist 5000 disclosure	\$500,000	7 for the Commission
South Dakota	Secretary of State, Elections Division	No	200-750 campaign 550 lobbyist 100-250 disclosure	\$500,000 for all of the Secretary of State's office	1 for the Division
Tennessee	Registry of Election Finance	Yes	2600 campaign 2400 lobbyist 350-600 disclosure	\$315,000	4 for the Registry
Texas	Ethics Commission	Yes	3200-3900 campaign 3800-5000 lobbyist 2700-3000 disclosure	\$1.5 million	35 for the Commission
Utah	State Elections Office, within the Office of the Lt. Gov.	No	900-1200 campaign including disclosure 200-300 lobbyist	\$700,000 – \$800,000 for the Office	5 for the Office
Washington	Public Disclosure Commission	Yes	35,000-44,000 campaign 8600-10,900 lobbyist 5900-7700 disclosure	\$1.79 million for FY 2000; \$2.25 million for FY 2001	21 for FY 2000; 25-26 for FY 2001
Wyoming	Secretary of State, Elections Division	No	400 campaign 500 lobbyist 95 disclosure	\$2 million for all of the Secretary of State's office	1 for the Division + 1 additional person for part of election year

Note: The Secretary of State's Offices in Colorado and North Dakota collect these three kinds of filings, but responsibilities for them are divided among separate program divisions.

APPENDIX 4—50-STATE COMPARISON

Campaign Finance Disclosure Agencies: A 50-State Comparison

State	Agency receiving campaign finance filings*	Same agency receive lobbyist filings?	Same agency receive personal financial disclosure filings?	Agencies involved in compliance and enforcement of campaign finance filing requirements (and related statutes)	Approximate number of filings received by the first agency (annually)	Annual agency or division budget	Number of agency or division staff	Electronic filing offered for filing campaign finance reports?*	Electronic filing mandatory for campaign finance filers (or scheduled for future)?**	"Digital Sunlight" Ranking***
AL	Secretary of State, Elections Division	No State Ethics Commission	No State Ethics Commission	Secretary of State; Attorney General	5000 campaign in an election year; 1000 otherwise	\$3 million for entire Secretary of State's Office	5 in the Elections Division	No	No	30
AK	Public Offices Commission	Yes	Yes	Public Offices Commission; Attorney General	2200 – 3700 campaign; 3250 lobbyist; 2000 disclosure	\$733,000 for Commission	11 full-time; 1 part-time for Commission	Yes	No	25
AZ	Secretary of State, Elections Services Division	Yes	Yes	Secretary of State; Attorney General; Citizens Clean Elections Commission	4200 campaign; 5200 - 5700 lobbyist; 500 - 700 financial disclosure	\$3.9 million for the Division	8 in the Division	Yes	Yes	9
AR	Secretary of State, Elections Department	Yes	Yes	Secretary of State; Ethics Commission; "proper law enforcement authorities"	2520 campaign; 4200 lobbyist; 3000 financial disclosure	\$2.2 million for the Department	5 in the Department	No	No	42
CA	Secretary of State, Political Reform Division	Yes	No Fair Political Practices Commission	Secretary of State; Fair Political Practices Commission; Attorney General; Franchise Tax Board	500,000 pages of campaign reports; 14,000 lobbyist	\$1.7 – 1.8 million for the Division, excluding costs for the website	25 in the Division	Yes	Yes	4
CO	Secretary of State, Elections Division	Secretary of State; Licensing Division (7150 filings)	Yes	Secretary of State (Attorney General investigates complaints about candidates for Secretary of State.)	7300 - 7800 filings includes campaign and financial disclosure	\$10.8 million for the Secretary of State's Office	8 in the Division	No Trying to implement now	No	26
CT	Secretary of State, Election Services Division	No State Ethics Commission	No State Ethics Commission	Secretary of State; Elections Enforcement Commission; Chief State's Attorney	8000 campaign in an election year	\$1.746 million for the Division	14 in the Division; 2 deal mostly with campaign finance	Yes	Yes	22
DE	State Election Commissioner	No Public Integrity Commission	No Public Integrity Commission	State Election Commissioner; Attorney General	2700 campaign in an election year as an upper bound	\$1.146 million for the Commissioner's central office	18 to 20 in the Commissioner's Office	Yes	No	45

State	Agency receiving campaign finance filings*	Same agency receive lobbyist filings?	Same agency receive personal financial disclosure filings?	Agencies involved in compliance and enforcement of campaign finance filing requirements (and related statutes)	Approximate number of filings received by the first agency (annually)	Annual agency or division budget	Number of agency or division staff	Electronic filing offered for filing campaign finance reports?*	Electronic filing mandatory for campaign finance filers (or scheduled for future)?**	"Digital Sunlight" Ranking***
FL	Department of State, Division of Elections	No Commission on Ethics	Yes Transfers to Commission on Ethics as of January 2001	Department of State; Elections Commission (now within Attorney General's Office); State Attorney	11,000 - 12,000 campaign; 15,000 financial disclosure	\$9.3 million for the Division	60 for the Division; 12 focus on campaign finance	Yes	By rule, yes, but in practice, electronic filing is voluntary.	11
GA	Secretary of State, Elections Division	No State Ethics Commission	Yes	Secretary of State; State Ethics Commission; Attorney General	???	???	25 in the Division	No	Yes	31
HI	Campaign Spending Commission	No State Ethics Commission	No State Ethics Commission	Campaign Spending Commission; Attorney General; county prosecutors	4000 campaign in an election year; 1500 in an off-year	\$390,000 for the Campaign Spending Commission	5 for the Commission	Yes	Yes	5
ID	Secretary of State, Election Division	Yes	No No state requirement for financial disclosure filings	Secretary of State; Attorney General	2500 campaign; 1400 lobbyist	\$1.488 million for the Secretary of State's Office	3 full-time for the Division plus portion of administrator's time	No	No	28
IL	State Board of Elections, Division of Campaign Disclosure	No Secretary of State	No Secretary of State	State Board of Elections; Attorney General	15,000 campaign	\$827,000 for the Division	17 for the Division	Yes	Yes	1
IN	Secretary of State, Election Division	No Lobby Registration Commission	No State Ethics Commission	Secretary of State; State Election Commission	4350 campaign would be an upper bound	\$1 million for the Division, of which approx. \$350,000 is for campaign finance work	10 for the Division	No At the pilot test stage	No	13
IA	Ethics and Campaign Disclosure Board	Yes For executive branch lobbyists	Yes For executive branch officials and employees	Ethics and Campaign Disclosure Board; Attorney General; county attorneys	???	\$500,000 for the Board	8 for the Board	Yes	No	34
KS	Governmental Ethics Commission	Yes	Yes	Governmental Ethics Commission; Attorney General	5250 campaign; 6120 lobbyist; 6120 financial disclosure	\$553,000 for the Commission	9 full-time; 1 part-time for Commission, plus temporary employees to enter data	No	No	39

State	Agency receiving campaign finance filings*	Same agency receive lobbyist filings?	Same agency receive personal financial disclosure filings?	Agencies involved in compliance and enforcement of campaign finance filing requirements (and related statutes)	Approximate number of filings received by the first agency (annually)	Annual agency or division budget	Number of agency or division staff	Electronic filing offered for filing campaign finance reports?*	Electronic filing mandatory for campaign finance filers (or scheduled for future)?**	"Digital Sunlight" Ranking***
KY	Registry of Election Finance	No Exec Branch & Legislative Ethics Commission	No Exec Branch & Legislative Ethics Commission	Registry of Election Finance; Commonwealth Attorneys; Attorney General	4200 – 8500 campaign, as a very rough estimate	\$1.5 million for the Registry	19 for the Registry	Yes	Yes	16
LA	Board of Ethics and Supervisory Committee on Campaign Finance Disclosure (one agency)	Yes	Yes	Board of Ethics; Attorney General; district attorneys	13,000 campaign; 1650 lobbyist; 200 financial disclosure; 400 nepotism	\$1.3 million for the Board	21 or 22 for the Board	Yes	Yes	6
ME	Commission on Governmental Ethics and Election Practices	Yes	Yes	Commission on Governmental Ethics and Election Practices; Attorney General; other law enforcement agencies	3460 campaign, including financial disclosure; 2400 lobbyist	\$138,000 for the Commission	6 for the Commission; plus 1 counsel from Attorney General's Office	No Hope to have it by November	No	41
MD	State Board of Elections, Division of Candidacy and Campaign Finance	No State Ethics Commission	No State Ethics Commission	State Board of Elections; State Prosecutor	Between 1600 and 4800 campaign	\$772,000 for the Division	7 to 8 for the Division	Yes	Yes	27
MA	Office of Campaign and Political Finance	No Secretary of State	No State Ethics Commission	Office of Campaign and Political Finance; Attorney General	At least 1875 campaign	\$800,000 - \$900,000 for the Office	15 for the Office	No In building phase now	Yes	21
MI	Secretary of State, Bureau of Elections	Yes	No Requirement for financial disclosure filings	Secretary of State; Attorney General	10,000 campaign; 4400 lobbyist	\$3.342 million for the Bureau	30 regular + some temp employees for the Bureau	Yes	Yes	3
MN	Campaign Finance and Public Disclosure Board	Yes	Yes	Campaign Finance and Public Disclosure Board; county attorneys	3350 campaign; 9040 lobbyist; 1071 financial disclosure	\$526,000 for the Board	9 for the Board	Yes	No	29

State	Agency receiving campaign finance filings*	Same agency receive lobbyist filings?	Same agency receive personal financial disclosure filings?	Agencies involved in compliance and enforcement of campaign finance filing requirements (and related statutes)	Approximate number of filings received by the first agency (annually)	Annual agency or division budget	Number of agency or division staff	Electronic filing offered for filing campaign finance reports?***	Electronic filing mandatory for campaign finance filers (or scheduled for future)?**	"Digital Sunlight" Ranking***
MS	Secretary of State, Elections Division	Yes	No State Ethics Commission	Secretary of State; Attorney General	4500 campaign in a major election year; 1500 lobbyist	\$876,000 for the Division	10 for the Division, of which 4 focus on campaign and lobby disclosure	No Though a pilot project last year explored filing by diskette	No	23
MO	Ethics Commission	Yes	Yes	Ethics Commission; Attorney General	12,000 campaign; 10,800 lobbyist; 9000 financial disclosure	\$1.37 million for the Commission	Between 21 and 25 for the Commission	No	Yes Once system is in place	17
MT	Commissioner of Political Practices	Yes	Yes	Commissioner of Political Practices, who may retain a "special attorney general"	From 200 – 1200 campaign; Upper bound on lobbyist reports of 3200; From 800 – 1200 financial disclosure	Approximately \$351,000 for the Commissioner's office	4 for the office	No	No	43
NE	The Accountability and Disclosure Commission	Filed with the Clerk of the Legislature, who sends copies to the Commission	Yes	Accountability and Disclosure Commission; Attorney General	???	\$440,000 for the Commission	8 for the Commission	No	No	33
NV	Secretary of State, Elections Division	No Legislative Counsel Bureau	No State Ethics Commission	Secretary of State; State Ethics Commission; Attorney General	550-600 campaign	\$147,000 for the Division (includes reimbursing counties for election materials)	4.5 for the Division	No	No	40
NH	Department of State, Elections Division	Yes	Filed with Secretary of State, but authority is with the State Ethics Comm.	Department of State; Attorney General	7800 campaign; 1500 lobbyist; 500 financial disclosure	\$300,000 to \$600,000 for the Division	7 for the Division	No	No	24
NJ	Election Law Enforcement Commission	Yes	Yes	Election Law Enforcement Commission; Office of Administrative Law	Approximately 25,000 of all three filing categories, combined	\$2.9 million for the Commission; an additional \$600,000 for public financing program	53 for the core staff of the Commission; an additional 11 for a public financing program	Yes	No	12

State	Agency receiving campaign finance filings*	Same agency receive lobbyist filings?	Same agency receive personal financial disclosure filings?	Agencies involved in compliance and enforcement of campaign finance filing requirements (and related statutes)	Approximate number of filings received by the first agency (annually)	Annual agency or division budget	Number of agency or division staff	Electronic filing offered for filing campaign finance reports?*	Electronic filing mandatory for campaign finance filers (or scheduled for future)?**	"Digital Sunlight" Ranking***
NM	Secretary of State, Ethics Administration	Yes	Yes	Ethics Administration; Attorney General	7200 an upper bound on campaign; 3000 lobbyist ; 2000 financial disclosure	\$2.3 million for the Secretary of State's Office	3 - 4 for the Ethics Administration	Yes	No	38
NY	State Board of Elections	No Temporary State Commission on Lobbying	No State Ethics Commission	State Board of Elections; district attorneys	8800 an upper bound on campaign	\$3.5 million for the Board	45 for the Board	Yes	Yes	2
NC	State Board of Elections	No Secretary of State	Yes	State Board of Elections; district attorneys	8000 a <u>very</u> rough estimate on campaign	???	20 for the Board	Yes	Yes	15
ND	Secretary of State, Elections Division	Division of Administration & Licensing within Secretary of State	Divided between the two Secretary of State Divisions	Secretary of State; local or county prosecutor (Attorney General may request audits)	A little over 1000 campaign and candidate financial disclosures	\$112,500 for the Division	2 for the Division	Yes	No	37
OH	Secretary of State, Campaign Finance Division	No Joint Legislative Ethics Committee	No Joint Legislative Ethics Cmte. & State Ethics Commission	Secretary of State; Elections Commission; County prosecutors	6800 campaign	???	7 for the Division	Yes	Yes	32
OK	Ethics Commission	Yes	Yes	Ethics Commission	10,000 campaign; 1000 lobbyist; 5000 financial disclosure	\$500,000 for the Commission	7 for the Commission	Yes	No A requirement for electronic filing was repealed	18
OR	Secretary of State, Elections Division	No Government Standards and Practices Commission	No Government Standards and Practices Commission	Secretary of State; a few offenses would go to Attorney General	5900 campaign a rough estimate	\$2.35 million for the Division	16 for the Division	Yes	Yes	19
PA	Department of State, Bureau of Commissions, Elections, and Legislation	No Ethics Commission	No Ethics Commission	Department of State; Attorney General	10,000 – 12,000 campaign	\$1.4 million for the Bureau	3 work particularly on campaign finance filings	Yes	No	20

State	Agency receiving campaign finance filings*	Same agency receive lobbyist filings?	Same agency receive personal financial disclosure filings?	Agencies involved in compliance and enforcement of campaign finance filing requirements (and related statutes)	Approximate number of filings received by the first agency (annually)	Annual agency or division budget	Number of agency or division staff	Electronic filing offered for filing campaign finance reports?***	Electronic filing mandatory for campaign finance filers (or scheduled for future)?**	"Digital Sunlight" Ranking***
RI	Board of Elections, Campaign Finance Division	No. Secretary of State	No Ethics Commission	Board of Elections; Attorney General	4600 – 7200 campaign	???	2 for the Division	No	No	48
SC	Campaign finance filings go to three separate Ethics Commissions (House, Senate, and State)	State Ethics Commission	State Ethics Commission	All three Ethics Commissions have some authority RE complaints; State Ethics Commission may expressly refer cases to Attorney General	For the State Ethics Commission, 4100 campaign; 4600 lobbyist; 9500 financial disclosure	\$525,000 for the Commission	9 full-time, 1 part-time for the Commission	No	No	50
SD	Secretary of State, Elections Division	Yes	Yes	Attorney General	200-750 campaign; 550 lobbyist; 100-250 financial disclosure	\$500,000 for the Secretary of State	1 for the Division	No	No	36
TN	Registry of Election Finance	Yes	Yes	Registry of Election Finance; district attorney general	2600 campaign; 2400 lobbyist; 350-600 financial disclosure	\$315,000 for the Registry	4 for the Registry	No	No	49
TX	Ethics Commission	Yes	Yes	Ethics Commission; "appropriate prosecuting attorney"	Very rough estimates: 3200 – 3900 campaign; 3800 – 5000 lobbyist; 2700 – 3000 financial disclosure	\$1.5 million for the Commission	35 for the Commission	Yes	Yes	8
UT	State Elections Office, within the Office of the Lt. Governor	Yes	Yes	State Elections Office; Attorney General; county prosecutors	900-1200 campaign including financial disclosure; 200-300 lobbyist	\$700,000 - \$800,000 for the Office	5 for the Office	Yes	No	14
VT	Secretary of State, Elections and Campaign Finance Division	Yes	No No state requirement for financial disclosure filings	Attorney General	1675 campaign; 2175 lobbyist	\$230,000 for the Division	3 for the Division	No	No	44
VA	State Board of Elections	No. Secretary of Commonwealth	No. Secretary of Commonwealth	State Board of Elections; Commonwealth Attorneys	At least 1400 campaign	\$11 million for the Board, including reimbursing localities for election costs	30 for the Board, 3 who focus on campaign finance	Yes	Yes	7

State	Agency receiving campaign finance filings*	Same agency receive lobbyist filings?	Same agency receive personal financial disclosure filings?	Agencies involved in compliance and enforcement of campaign finance filing requirements (and related statutes)	Approximate number of filings received by the first agency (annually)	Annual agency or division budget	Number of agency or division staff	Electronic filing offered for filing campaign finance reports? **	Electronic filing mandatory for campaign finance filers (or scheduled for future)? **	"Digital Sunlight" Ranking ***
WA	Public Disclosure Commission	Yes	Yes	Public Disclosure Commission; Attorney General; county prosecuting attorneys	35,000-44,000 campaign; 8600-10,900 lobbyist; 5900-7700 financial disclosure	\$1.79 million for FY 2000; \$2.25 million for FY 2001	21 for the Commission for FY 2000; 25-26 for the Commission for FY 2001	Yes	Yes	10
WV	Secretary of State, Elections Division	No Ethics Commission	No Ethics Commission	Secretary of State; State Elections Commission; Attorney General; county prosecuting attorneys	3500-4200 campaign	\$200,000 for the Division plus elections expenses	5 for the Division	Yes	No	46
WI	State Elections Board	No State Ethics Commission	No State Ethics Commission	State Elections Board; Attorney General; county district attorneys	3600 campaign	\$950,000 for the Board	13 for the Board	In process/ In dispute with vendor	Yes	35
WY	Secretary of State, Elections Division	Yes	Yes	Secretary of State; Attorney General; district attorneys	400 campaign; 500 lobbyist; 95 financial disclosure	\$2 million for the Secretary of State	1 person for the Division plus 1 additional person for part of an election year	No	No	47

NOTES:

(1) Please note that this table is provided for general information purposes only and that the various agencies and divisions are often not directly comparable in terms of responsibilities. For example, an Elections Division responsible for collecting campaign finance filings is likely also responsible and budgeted for conducting elections; however, that same division may not be responsible for collecting financial disclosure statements or for investigating violations of the campaign finance laws.

(2) In some cases, the agencies or divisions had relatively precise estimates for the volume of filings received for the various types of documents; in other instances, the figures presented in the table represent a rough estimate. The figures in this table should be used as representing the relative magnitude of filings received by these agencies or divisions.

* This excludes filings to local entities such as county auditors.

** These columns represent the status as of August 2000. This is a rapidly changing environment, and many agencies are in the process of making or planning to make numerous changes both with regard to electronic filing and website display of information. In some cases, the agencies hope to have the changes in place by the November 2000 general elections.

*** The Digital Sunlight ranking is from a 1999 study conducted by the California Voter Foundation. The study evaluated each state and provided a score based on (a) the status of electronic filing of campaign finance information, and (b) the state's efforts to provide access to campaign finance information on a website. Evaluation criteria for the first category include whether the state agency or division offers electronic filing, whether electronic filing is mandatory, and whether the state offers free software for filing. Criteria for the second category include whether the state agency or division posts campaign finance information on the website, the amount of detail offered, and whether it is possible to search, browse, and download information. The rankings represent a snapshot of the status of these operations in late 1999.

APPENDIX 5 – TECHNOLOGY HISTORY

Recent History of Legislative Funding of PDC Technology, and Identification of PDC Budget Expenditures of These Legislative Appropriations

In order to trace the recent history of the Legislature’s investment in the Public Disclosure Commission’s disclosure technology, JLARC staff assembled the information in Columns 1 through 4 of the table on the following pages. In the JLARC information request to the PDC for this performance audit, we asked the PDC to identify how it used the legislative appropriations. The PDC’s explanation appears as it was provided in the PDC response.

APPENDIX 5 – TECHNOLOGY HISTORY

Legislative Session	Policy Bills	Appropriations Language	Budget Notes
1994	E2SSB 6426 directs the PDC to design a program for electronic access to public documents filed with the Commission, by January 1, 1995.	Of a total appropriation of \$2.178 million, \$64,000 is provided solely for implementation of a program to provide public electronic access to records maintained by the PDC pursuant to E2SSB 6426. The funds are not to be expended until the program is reviewed by DIS to ensure compatibility with other state information systems.	\$64,000 is provided to implement a program to increase public electronic access to the records of the PDC, pursuant to E2SSB 6426.
PDC Explanation of Budget Expenditures			
<p>“In 1994, the plan was to upgrade and expand our current dial-up access. Remote access began in 1992 when citizens using a computer and modem (or our in-house system) could obtain information on statewide and legislative candidates through the Commission’s bulletin board system (MAGIC).</p> <p>The Commission contracted with the Department of Information Services on May 13, 1994, to design, develop and implement an electronic filing application and the ‘high-level design for electronic access to PDC documents.’ Estimated cost for the project was \$64,000.</p> <p>The goal of the project was to design, develop and implement an electronic filing application for use by PDC pilot sites and to complete the high-level design for electronic access to PDC documents. The project objectives were: *Pilot sites will be able to electronically file their reports to the PDC. * PDC will have the ability to electronically receive reports from the pilot sites. PDC will also have the ability to electronically inform the pilot site that the data has been received. *PDC will have the ability to update their centralized database with the information they receive electronically; this will reduce the amount of time it currently takes to update the PDC database. *PDC staff will be trained in the use of the Electronic Filing application. *The high-level design for electronic access will provide PDC with the information they need to pursue further funding for an electronic access project.</p> <p>After reviewing the design phase document provided by DIS in January 1995 (at a cost of \$29,289.50), a decision was made to develop a Request for Proposal for electronic filing. That RFP was distributed in early October 1995. The remaining funds (\$35,000) were spent on computer equipment maintenance, repairs to the microfiche equipment, and customer service computers.”</p>			

Legislative Session	Policy Bills	Appropriations Language	Budget Notes
1995	ESSB 5684, originally a PDC request bill, makes numerous changes to the PDC statutes, including references to allow for the electronic filing of reports.	A total appropriation of \$2.152 million, with no special proviso language.	<ul style="list-style-type: none"> ◆ A savings of \$59,000 is projected as a result of funding the electronic access improvement package. These savings derive from eliminating the need for replacing microfilm equipment, renewing microfilm maintenance agreements, and purchasing microfilm supplies. It is also anticipated that savings will be realized on printing expenditures as a result of the new technology. ◆ \$68,000 is provided for the replacement of cabling, software upgrades, and temporary data entry assistance to implement the electronic access [system] designed by the Commission in compliance with E2SSB 6426. This item also provides funding for the development of an electronic filing system. An additional \$13,000 reflects a revised cost estimate by DIS. ◆ \$59,000 is provided to continue work begun under E2SSB 6426 to improve electronic access to PDC information. Specifically, funds are provided for conversion from the existing microfilm system to an imaging system and a fax-on-demand system to allow 24-hour access to PDC data from any PC/modem.

PDC Explanation of Budget Expenditures

“Regarding the \$59,000 in projected savings, since PDC’s new scanning system was not implemented until July 1996 and, during the 1996 campaigns, reports were both scanned and copied to microfiche (so the latter would include the complete campaign), it is highly unlikely that any savings resulted in FY 96 from implementation of the new technology.

\$59,000 Allotment – In 1995, the Commission entered into a contract with Financial Services Products Corporation to migrate from microfiche to a document imaging system. The project objectives were: *Replace microfiche process with an in-house solution providing information over the existing computer network; *Eliminate the need to copy and distribute microfiche to requesters; *Provide information on the existing network for in-house retrieval; *Provide on-line access to images via the Internet; *Duplicate CD ROM disks to provide an off-site backup; *Offer CD ROM disks with imaging software for retrieval on the disk to requesters of large volumes of information.

Objectives that were not realized are as follows: *Eliminate the need to copy and distribute microfiche – With the installation of a new document management system during a peak elections season, staff continued to microfiche documents through the end of the 1996 election cycle. Staff continues to copy and distribute microfiche to requesters who wish to review reports filed by campaigns and lobbyists prior to 1996. *Provide on-line access to images via the Internet – Images were not available on the Internet until January 1999. The cost of the project was \$59,038, and the new system was implemented on July 22, 1996.

\$68,000 Allotment – In March 1996, PDC contracted with SDR Technologies, Inc. to develop campaign finance filing software for candidates to file their reports on diskette and paper. All major political party candidates for governor using full reporting were required to participate in the agency’s electronic filing program (WAC 390-16-190). The PDC was looking for a system where filers could use an electronic alternative to paper, a system that could be built upon in the future. Initially, the system would provide for the electronic transmission of between 7-10 different types of campaign forms by no more than 15 filers. The system had to be compatible with the agency’s current FoxPro databases and with an anticipated document imaging system, which was being explored (see above). The total cost of the project was \$9,850 and was implemented in July 1996. While transitioning from microfiche to scanning, PDC hired a temporary clerk to continue to microfiche filings through the end of the 1996 election cycle. The remaining funds, approximately \$26,000 was spent on computer equipment and software upgrades, and \$6000 on temporary data entry and microfiche processing assistance and \$24,000 on repairs and maintenance.”

Legislative Session	Policy Bills	Appropriations Language	Budget Notes
1997		Of a total appropriation of \$2.663 million, \$306,000 of the FY 1998 appropriation and \$72,000 of the FY 1999 appropriation are provided solely for technology for customer-service improvements.	<ul style="list-style-type: none"> ◆ One-time funding of \$139,000 is provided to implement electronic filing of financial affairs statements and lobbyist registrations. ◆ One-time funding of \$239,000 is provided for customer-service technology improvements including enhanced Internet access, fax-on-demand technology, and personal computers and software compatible with the agency's new imaging system.
PDC Explanation of Budget Expenditures			
<p>“<u>\$306,000</u> – In 1997, PDC entered into a contract with SDR Technologies, Inc. for the acquisition and installation of an electronic filing and access system for campaign finance, lobbyist and financial affairs reporting. The project objectives were: *Develop campaign finance filer software; Internet filing software; vendor software; *Design an agency system (database); *Design an agency Internet web site; *Develop a system where document images will be automatically converted to Internet (.gif) images and presented on the Internet Web site. Because the total cost of the electronic filing software for lobbyists exceeded available funds, that portion of the proposal was eliminated from the contract. The total cost of the project was \$209,568. The remaining funds were spent on enhancements to the imaging system, \$25,000, upgrades to computer equipment, software and custom programming, \$48,300, purchased services for customer service improvements, \$9,100, and repairs and maintenance, \$14,000.</p> <p><u>\$72,000</u> – PDC spent \$9,352 on an air cooling unit for the Internet server, \$26,735 on hardware and software upgrades and diskette duplicator for filer software, \$25,920 on PDC's T-1 line and Internet server maintenance and \$3,450 for temporary data entry assistance.”</p>			

Legislative Session	Policy Bills	Appropriations Language	Budget Notes
1999	E2SSB 5931 makes numerous changes regarding the PDC and the use of technology, including goals for timely posting of filed information on the agency web site, development of an information technology plan, a requirement of the PDC to offer electronic filing, and mandatory electronic filing for certain filers.	Of a total appropriation of \$3.22 million, \$328,000 of the FY 2000 appropriation and \$86,000 of the FY 2001 appropriation are provided solely for the implementation of E2SSB 5931.	<ul style="list-style-type: none"> ◆ \$65,000 is provided to maintain the agency's Internet server, part of the PDC's electronic filing and access project. ◆ \$414,000 is provided for the implementation of E2SSB 5931, providing for a computer information consultant, a data entry clerk, and various equipment to enable the PDC to develop an information technology plan and to fully implement an electronic filing and document access system.
PDC Explanation of Budget Expenditures			
<p>“PDC spent \$144,062 in salaries and benefits as follows: For Information Technology personnel: (3.5 months) \$23,051; (3 months) \$17,895; (12 months) \$61,710; For data entry personnel: (10 months) \$20,703.</p> <p>PDC also spent an additional \$272,000 on hardware and software (on an attached document). This amounts to well over the \$328,218 that was appropriated for the implementation of E2SSB 5931. The additional funds were general appropriations that were reallocated for IT.”</p>			

Legislative Session	Policy Bills	Appropriations Language	Budget Notes
2000	SB 6775 provides the PDC with additional time to offer electronic filing for lobbyists and their employers, to phase in mandatory electronic filing, and to phase in timelier posting of filed information on the agency web site.	Of a total appropriation of \$3.921 million, the FY 2001 appropriation provided solely for the implementation of E2SSB 5931 is increased from \$86,000 to \$760,000.	An additional \$674,000 is provided to implement the electronic filing requirements for political action committees and lobbyists under E2SSB 5931.

PDC Explanation of Budget Expenditures

“This supplemental appropriation is being spent on IT staff salaries and benefits, further enhancements to PDC’s imaging system and development of web applications for lobbyists, lobbyist employers, campaign filers and, hopefully, personal financial affairs filers.”

(In response to the next question in the JLARC info request) “Regarding ‘how the Commission arrived at its current situation’ the answer is that, until recently, there has never been a technologist in a position to drive the agency in a direction that ultimately satisfies the business needs and requirements. Further, steps have already been taken to rectify the ‘current situation’ and begin an expedited process toward ultimate conclusion. The transition began March 13, 2000, when the newly hired Chief Technology Officer, Michael Smith, began working for the Commission. Upon the CTO’s arrival, issues with the current information technology solutions currently in production were quickly identified and a plan put into action. Negotiations with current contractors ensued, and issues with electronic filing software and systems are, in fact, being resolved. In addition, the need to upgrade the agency’s current imaging system, known as PaperGate, provided the opportunity to start taking steps to correct our underlying problems. The new imaging system provides the foundation and backend infrastructure that will ultimately be the single agency solution for public and staff access to both images and data. The project currently underway has multiple components with varying delivery schedules.

The current deliverable, the ProFile imaging system, is planned to be put into production by August 15, 2000. As indicated earlier, this component is significant, both in scope and importance, to the implementation of an upgraded agency system. After its completion, the agency will focus on data store consolidation, by moving the agency data store from Informix and importing it into MS SQL server, where the imaging system data resides. This project phase is scheduled for completion in the December 2000 timeframe. Then the development of the Internet user interface (the filer application) can begin in late December, with a Beta product of the lobbyist reporting system being ready to test in March or April. These are the current goals for the new production environment.

The total cost estimate including the upgraded imaging system, upgraded hardware infrastructure to host the solution, the migrated database and newly developed Internet user interface is estimated near \$500,000, not including staff salaries and benefits.

The reason the Commission has chosen this particular upgrade and migration path toward Internet technologies is because our business requirements are completely satisfied through the use of these technologies. With the agency’s mission to provide access to political spending data, the Internet is an ideal medium to distribute the information to the public and the press with the least cost to the taxpayer. The usefulness of the current software provided free-of-charge to filers is quickly coming to an end as technology surpasses its capabilities. The current software is time-consuming to support because it is complex and is installed on the user’s PC. Whereas its replacement, a platform independent Internet based application that is not installed on an end-user’s PC, will be developed in-house and be easier to support and manage. Further, in listening to constituents who use the current software, we can incorporate many of the features they would like to see in a campaign finance filing system, and at the same time make it easier for them to use. The result will be many more electronic filers who have a high degree of confidence in and satisfaction with the system.”

